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on the Core Fundamentals
of Appraising Personal Property

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9th Edition

Appraising Personal Property: Principles & Methodology

- THEORY
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Updated to fully conform
with 2020-2021 USPAP

David J. Maloney, AOA CM

Appraising Personal Property:

Principles and Methodology

— 9th Edition —

A unique and comprehensive how-to guide for the personal property appraiser

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The definitive work on the fundamentals of appraising

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Theory • Principles • Practices • Methodology • Standards
Ethics • Regulations • Report Writing • Legal Issues
Sample Appraisals • Running an Appraisal Business

—

Updated to fully conform with the 2020-2021 edition of USPAP

David J. Maloney, AOA CM

Appraising Personal Property: Principles and Methodology – 9th Edition
by David J. Maloney, AOA CM
January 2020

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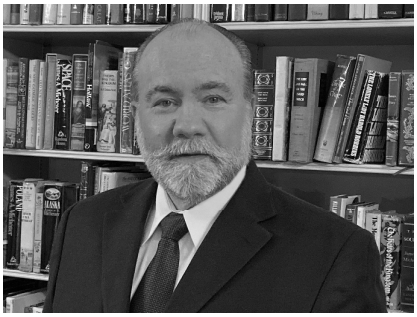
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About the Author



David Maloney is a nationally-known personal property appraiser, author, television host, radio-talk show guest, and veteran appraisal course writer and instructor. His reputation is based on nearly 40 years of practical appraisal experience, extensive academic and personal study, writing, teaching and lecturing.

David received his Bachelor's degree in engineering from the U.S. Coast Guard Academy and his Master's degree in communications management from the Naval Postgraduate School. After a career in the Coast Guard, he operated an antiques business prior to founding Frederick Appraisal, Claims & Estate Services in 1982. He qualified as a Certified Member of the International Society of Appraisers (ISA) in 1995 and as a Certified Member of the Association of Online Appraisers (AOA) in 2001. David is past-President and currently Secretary/Treasurer of the AOA.

Since 1982 David has been a full-time professional personal property appraiser specializing in the valuation of antiques, collectibles, residential contents, vehicles, and business equipment for insurance, probate, divorce, equitable distribution, damage claims, legal, and noncash charitable contribution purposes. David provides appraisal consulting services to individuals, bank trust departments, personal representatives, accountants, estate planners, claims adjusters, insurance agents, and the moving industry. He also provides litigation support services for attorneys and has qualified as an expert witness in West Virginia, Virginia and Maryland.

David has served as a member of the Board of Directors of the moving industry's Claims Prevention and Procedure Council, and he has written and spoken extensively on the role of an appraiser in the claims process. He was also a contributing author of the *California Household Goods Carriers Claims Training & Reference Manual.*

David served in a leadership capacity with the International Society of Appraisers from 1983 to 2001, both at the Chapter and the National levels. He served as the ISA's Vice President and was twice elected to the ISA's Board of Directors. As ISA's Education Committee Chairman, in 1994 David was charged with completely rewriting the ISA's *Core Course in Appraisal Studies* from scratch—a six-month, full-time volunteer effort. For the next seven years he maintained and taught this course across the country and in Canada. He also wrote ISA's *Chapters Manual* and its *Appraisal Report Writing Standard* booklet. In addition, he wrote and taught the ISA *Requalification Course*, and was primary writer for the ISA's *Distance Education Course in Appraisal Studies*. He has also written and taught appraisal courses for the Auctioneers Association of Canada, the Association of Online Appraisers and Appraisal Course Associates.

David served as ISA's representative to The Appraisal Foundation Advisory Council (TAFAC) in Washington, DC where he served as Chair of the TAFAC Emerging Issues Committee, and where in 1998 he was recognized for his contributions to the development of The Appraisal Foundation's first *Personal Property Appraiser Qualification Criteria.*

David was contributing editor to Jordan Goodman and Sonny Bloch's *Everyone's Money Book* and has been quoted by *Woman's Day*, *Washington Post, Kiplinger's Personal Finance Magazine, Good Housekeeping, U.S. News & World Report, Redbook, Arthritis Today Magazine, The Baltimore Sun, Seattle Times, Physicians Financial News, Frederick News Post*, and in most major antiques & collectibles trade publications.

David served as host of the Public Television series *Collecting Across America* and as chief appraiser on the hit PAX TV collectibles show, *Treasures in Your Home: The World of Collecting*. David also served as Chief Appraisal Officer for CollectingChannel.com and its parent company, Paid, Inc. In addition, he was architect and Director of CollectingChannel.com's popular online appraisal service, *Ask the Appraiser*.

David has also authored *The Personal Property Appraiser's Guide to USPAP*, *The Complete Online Course in Personal Property Appraising (Featuring USPAP)*, and the online course *How to Write Appraisal Report.* David also assists with the presentation of ACA's *Online USPAP Update Course* webinars which are taught by his AQB-certified USPAP instructor/business partner, William M. Novotny, ISA AM.

For fourteen years, David authored the biennial *Maloney's Antiques & Collectibles Resource Directory*, a compilation of over 20,000 resources for over 3,000 categories of antiques and collectibles. Called "the bible" of the industry by *U.S. News & World Reports* and hailed as a "Best Reference Book" by *Library Journal*, *Maloney's Antiques & Collectibles Resource Directory* was considered a "must have" on every collector's bookshelf.

As its Chief Appraisal Officer, David was appointed to the Board of Directors of *ValueThisNow.com*, a California-based appraisal management company he helped design and which offers USPAP-compliant online appraisals of antiques and collectibles.

For his efforts within the profession, David has earned numerous ISA honors including the Lamp of Knowledge Award, Distinguished Service Award, Member-of-the-Year Award, and the coveted President's Award. The ISA has also honored David with its Lifetime Achievement Award in recognition of his years of dedicated service and contributions to the ISA and to the personal property appraisal profession.



For this book, *Appraising Personal Property: Principles and Methodology*, David received the International Society of Appraiser's coveted *Publication Award.* The award recognizes the most outstanding written work involving the appraisal profession as a whole. In selecting this book, consideration was given to the degree to which the work enhances the appraisal profession including its growth, credibility and image.

Visit AppraisalCourseAssociates.com for more information regarding David's courses, books and appraisal services.

David lives with his wife, Barbara, in Frederick, Maryland.

Preface

The personal property appraiser serves an important and necessary function in today's society by providing valuations that are used for a myriad of purposes including litigation and dispute resolution, property loss and damage, estate settlement, federal and state tax liability issues, insurance coverage, equitable division of property, estate planning, liquidation, sale by owner, financial reporting, collateral loans, etc. These are all examples of appraisal **intended uses** and they all have one thing in common—financial decisions are often made by others based on the appraiser's opinions and conclusions. Accordingly, appraisals must be performed competently, ethically and without bias—characteristics which are facilitated by the appraiser being well-grounded in the generally accepted principles and practices of appraising and in the application of the well-established *Uniform Standards of Professional Appraisal Practice* (USPAP) as promulgated by The Appraisal Foundation of Washington, DC. Today, it is more important than ever that personal property appraisers and would-be appraisers become knowledgeable in the principles, methodology, practices, ethics and standards of appraising in order to preserve the public's trust in the appraisal profession and to best serve the public's interests—hence this book, *Appraising Personal Property: Principles and Methodology - 9th Ed.*

The writing of this book was undertaken primarily to serve heretofore unmet educational needs of the personal property appraiser and would-be appraiser. In addition, *Appraising Personal Property: Principles and Methodology - 9th Ed.* is designed for professionals having an adjunct interest in appraising or a tangential need to be familiar with the underlying principles, theory, methodology, standards and related issues involved in the valuation of personal property. Included among the former are antiques dealers, estate liquidators and downsizers, brokers, jewelry store owners, repair specialists, auctioneers, authenticators, online Internet sellers, etc. Included among the latter are attorneys, estate planners, insurance adjusters and underwriters, military transportation officers, the moving industry, certain governmental agencies and other such appraisal user groups and stakeholders. This book is also designed to serve as an instructional guide for those wishing to make use of the most comprehensive resource available for such purposes. By being fully-indexed, by having a detailed Table of Contents, by containing a comprehensive glossary of terms relevant to the personal property appraiser, by being loaded with several hundred footnotes, and by having an Appendix with over thirty illustrations and examples including sample appraisals, this book serves as a handy, easy-to-use and comprehensive reference guide for instructors, students, appraisers and users of appraisals alike

Appraising Personal Property: Principles and Methodology - 9th Ed. has been written to reflect and focus on the high ethical and performance standards expected of professional personal property appraisers. In particular, this book emphasizes the need for compliance throughout the appraisal process with the widely recognized and accepted standards of USPAP.

This 9th edition has been thoroughly updated with expanded and added discussions, with the addition of 615 footnotes, and with hundreds of edits to improve clarity and understandability. More importantly, though, this edition incorporates all the many changes that were incorporated into the 2020-2021 edition of USPAP which is effective from January 1, 2020 through December 31, 2021. This 9th edition also includes what is actually an 85-page "mini-course" in USPAP. You will find this in Chapter 7 which focuses primarily on those parts of USPAP which pertain specifically to the personal property appraiser.

When coupled with a firm grounding in USPAP, *Appraising Personal Property: Principles and Methodology – 9th Edition* will greatly assist those who have as a goal the offering of personal property appraisal services in a professional manner that is competent, unbiased and in accordance with today's generally accepted standards.

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Dedicated

To the class of 1970

U.S. Coast Guard Academy

Celebrating 50 Years

Table of Contents

ABOUT THE AUTHOR III

PREFACE V

TABLE OF CONTENTS VII

INTRODUCTION 1

WHAT'S NEW 2
- New and Expanded Discussions 2
- Footnotes 3
- USPAP Changes 3
- Expanded Table of Contents and Index 6

CHAPTER SYNOPSES 7
- Appraisal Terminology 7
- Appraisal Principles 7
- *Uniform Standards of Professional Appraisal Practice* (USPAP) 8
- Ethical Standards of Professional Conduct 9
- Research 10
- Describing Property 10
- Writing an Appraisal Report 10
- The Professional Appraiser 10
- Legal Issues Affecting the Appraiser 11

CHAPTER 1: APPRAISAL TERMINOLOGY 12
- USPAP 12
- The Market 13
- Appraisal 14
- Appraisal Reviews 16
- Mass Appraisals 16
- Assignment Results 17
- Personal Inspections 18
- Reports 19
  - Oral Reports 19
  - Workfile 20
- Appraiser 21
  - Three Primary Tasks of the Appraiser 21
    - Appraiser Task #1: Develop Opinions of Value 22
    - Appraiser Task #2: Estimate Replacement Costs 23
    - Appraiser Task #3: Calculate Present Worth of Income-Producing Property 23
- Valuation Service 24
- Appraisal Practice 24
- Competency 25
- Online Appraisals 26
- Personal Property 27
- Intangible Property (Intangible Assets) 28
- Appreciable vs. Depreciable Personal Property 29
- Comparable Properties 31
- Bundle of Rights/Ownership Rights 32
- Scope of Work 34
- Client 34
- Intended Use 36
- Credibility 37
- Intended Users 38
- Value vs. Cost vs. Price 41

Value 41
Objective vs. Subjective Interpretation 41
Perspective 42
Cost and Price 43
Assignment Conditions 45
Unacceptable Assignment Conditions 46
Limiting Conditions 47
Extraordinary Assumptions 48
Hypothetical Condition 49
Jurisdictional Exception 50
Purpose of an Assignment (Appraisals, Appraisal Reviews) 51
Market 53
Levels of Trade 53
Market Levels 55
Primary vs. Secondary Markets 55
Appraisal Process 56
Step 1: Identify the Appraisal Problem 57
Step 2: Determine the Scope of Work 58
Step 3: Analyze the Property's Use, Select Most Appropriate Market, Analyze Economic Conditions 59
Step 4: Collect and Analyze Data, Apply Most Appropriate Approach(es) to Value 59
Step 5: Analyze Subject Property Listings or Prior Sales 61
Step 6: Reconcile Value Indicators, Develop Final Opinion of Value 62
Step 7: Communicate Assignment Results to Client 63

CHAPTER 2: APPRAISAL PRINCIPLES PART I (VALUE AND COST) 64
Value 64
Value-in-Use 65
Value-in-Place 65
Value-in-Exchange 66
Value Type and Definition 66
Intended User Perspective and Requirements 69
Market Perspective: Market Participant Expectations 69
Legal or Regulatory Mandates 71
Value Types Used by Appraisers 76
Measuring Value 77
Market Value 78
Market Value: Fundamental Conditions for 80
Value Types Associated with Various Intended Uses of an Appraisal 83
Reasonable Exposure Time and Marketing Time 85
Fair Market Value 89
Definition of Fair Market Value 90
Reasonable Knowledge 93
Sale is to the Public 93
Most Common Market 94
Fair Value (for Business Assets and Liabilities) 96
Marketable Cash Value 99
Net Value 99
Liquidation Value 99
Orderly Liquidation Value 100
Forced Liquidation Value 101
Salvage Value 101
Scrap Value 102
Replacement Value 102
Actual Cash Value (ACV) 106
Investment Value 110
Loss-of-Value 111
Considerations when Determining Loss-of-Value 112
Book Value 115

Insurable Value 116
Types of Cost 116
Replacement Cost 117
Replacement Cost (New) 119
Replacement Cost (Comparable) 121
Reasonable Time/Most Relevant Market 121
Repair Cost 122
Walk-Throughs 122
Non-Monetary Opinions 124

CHAPTER 3: APPRAISAL PRINCIPLES PART II 126
Scope of Work 126
Acceptability of Scope of Work 133
Disclosure of Scope of Work 134
Inspection vs. Non-Inspection 136
Intended Use of an Appraisal 142
Purpose of an Appraisal 143
Valuing Ownership Rights 146
Property Interests 147
Contraband Property 149
Three Types of Property 149
Investment property 152
Marketable non-investment property 152
Non-marketable non-investment property 152
The Three Approaches to Determining Value 153
Sales Comparison Approach to Value 155
More Than Meets the Eye 156
Sales Comparison Approach Applicable to Depreciable or Appreciable Property 156
USPAP and the Sales Comparison Approach 162
Cost Approach to Value 162
USPAP and the Cost Approach 166
Income Approach to Value 167
USPAP and the Income Approach 169
Tying it Together 170

CHAPTER 4: APPRAISAL PRINCIPLES PART III (INTENDED USES) 172
Appraisals for Buying or Selling 172
Appraisals for Transit-Related or Insurance Casualty Loss and Damage 173
Appraisals for Equitable Distribution 181
Appraisals for Divorce 182
Appraisals for Estate Division 184
Appraisals for Business Dissolution 184
Appraisals for Acquiring Insurance Coverage 185
Actual Cash Value Insurance Policies (ACV) Insurance Policy 185
Broad Evidence Rule (BER) for Insurance Disputes 190
Replacement Cost Insurance Policies 191
Agreed Value Insurance Policies 192
Collectibles Insurance Policies 192
The Insurance Appraisal 193
Settlement Options 194
When Disputes Arise 195
Art Title Insurance 196
Federal Tax Liability Applications 197
Noncash Charitable Contribution Appraisals 201
Amount of Deduction 203
IRS Form 8283: When a Qualified Appraisal by a Qualified Appraiser is and is Not Required 205
Determining Fair Market Value 210
Changes to “Qualified Appraiser” and “Qualified Appraisal” Caused by Public Law 109-280 *Pension Protection Act of 2006* 212

Qualified Appraiser 213
Excluded Individuals 215
Qualified Appraisal 216
Special Considerations Regarding Donation Appraisals 225
IRS Form 8282 Donee Information Return 229
IRS Art Advisory Panel 230
Resources for Noncash Charitable Contribution Appraisals 230
Federal Estate Tax Appraisals 231
Resources for Federal Estate Tax Appraisals 234
Federal Gift Tax Appraisals 234
Resources for Federal Gift Tax Appraisals 235
Federal Casualty, Disaster & Theft Loss Tax Deduction Appraisals 236
Casualty and Disaster Losses 236
Theft Losses 236
Basis of Property 236
Figuring the Deduction 237
Resources for Federal Casualty, Disaster and Theft Loss Appraisals 239
Federal Bankruptcy Appraisals 239
Value Type Tied to Intended Use and Intended Users 241
Liquidation Appraisals 243
Multiple Value Opinions 245
Estates and Trust Management 246
State Inheritance Tax 247
State Estate Tax 247
Litigation Appraisals and Related Services 248
Ad Valorem Property Tax Appraisals 249
Collateralized Loan Appraisals 251
Corporate Financial Reporting 252

CHAPTER 5: APPRAISAL PRINCIPLES PART IV 253
Value Creators and Relevant Characteristics 253
Economic Characteristics (External Forces that Affect Value) 253
Physical Characteristics (Internal Forces that Affect Value) 256
Depreciation: Detractors of Value 258
Two Types of Depreciation for Personal Property 259
Age-Life Depreciation 260
Straight-Line Depreciation vs. Accelerated Depreciation 261
Accrued Depreciation 263
Physical Deterioration 264
Obsolescence 265
Value Ranking 268
Types of Appraisals and their Related Dates 269
Date of Inspection 270
Effective Date of the Appraisal 270
Date of the Report 271
Current Appraisal 272
Retrospective Appraisal 273
Prospective Appraisal 274
Fractional Appraisals 275
Preliminary Appraisals 278
Draft Appraisals 279
Hybrid Appraisals 280
Contingent Appraisals 281
Using Specialist Appraisers and Other Colleagues 282
Team Appraisals 283
Hypothetical Appraisals 284
Limiting Conditions 286
Extraordinary Assumptions 288
Oral Appraisal Reports 290

Using Photographs to Appraise When a Hands-On Inspection is Not Possible 296
Online Appraisals 298
Valuation Discounts 303
After Death Discounts 303
Fractional Interest Discounts (a.k.a. Minority Interest Discounts) 303
Blockage Discounts 305

CHAPTER 6: APPRAISAL PRINCIPLES PART V 308
Valuation Principles 308
Valuation Principles Relating to the Market 308
Valuation Principles Relating to the Item (Property Identification) 318
Identification & Authentication 320
Copies, Fakes, Counterfeits, Forgeries, Reproductions, Fantasy Items 321
Appraiser Assumed All-Knowledgeable 322
Identification 324
Authentication 326
Disclaimers and Terms of Use 333
Disclaimers and Terms of Use for Written Appraisal Reports 333
Disclaimers and Terms of Use for Oral Appraisal Reports 337

CHAPTER 7: *UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE* (USPAP) 338
History of USPAP 339
Role of the Professional Appraiser Recognized 340
Development of the Appraisal Standards 340
Governmental and Public Acceptance of USPAP 341
The Appraisal Foundation (TAF) 342
TAF Has No Legal Authority 343
TAF Boards 343
Board of Trustees (BOT) 343
Appraiser Qualifications Board (AQB) 343
Appraisal Standards Board (ASB) 344
Appraisal Practices Board (APB) 344
TAF Sponsors 344
TAF Advisory Councils and Groups 345
State Regulator Advisory Group (SRAG) 345
Appraisal Subcommittee (ASC) 346
State Agencies Are Responsible for Licensing and Certifying Real Property Appraisers 347
Purpose of USPAP 347
Beneficiaries of USPAP 348
Assignment Types Governed by USPAP 348
Property Types Governed by USPAP 349
USPAP Structure 350
USPAP Compliance Requirements 352
Assignments Involving Assistance From Others 354
DEFINITIONS 357
PREAMBLE 361
ETHICS RULE 363
Public's Expectations of Appraisers 364
Conduct Section of the ETHICS RULE 365
Management Section of the ETHICS RULE 367
Confidentiality Section of the ETHICS RULE 369
Gramm-Leach-Bliley Act: Protecting Consumer Financial Privacy 370
RECORD KEEPING RULE 371
COMPETENCY RULE 373
SCOPE OF WORK RULE 376
JURISDICTIONAL EXCEPTION RULE 378
USPAP STANDARDS 1 to 10 379
STANDARD 3 *Appraisal Review, Development* 380

STANDARD 4 *Appraisal Review, Reporting* 382
STANDARD 7 *Personal Property Appraisal, Development* 385
STANDARD 8 *Personal Property Appraisal, Reporting* 388
Six USPAP STANDARDS Governing the Real Property and Business Property Appraiser 391
STANDARD 1 *Real Property Appraisal, Development* and STANDARD 2 *Real Property Appraisal, Reporting* 391
STANDARD 5 *Mass Appraisal, Development* and STANDARD 6 *Mass Appraisal, Reporting* 392
STANDARD 9 *Business Appraisal, Development* and STANDARD 10 *Business Appraisal, Reporting* 393
Comments as Used in USPAP 393
Other Communications from the Appraisal Standards Board 394
Advisory Opinions 394
Frequently Asked Questions 394
USPAP Certification 394
The Appraisal Process and USPAP 397
Development Phase of the Appraisal Process 398
Reporting Phase of the Appraisal Process 403
Appraisal Report Options 404
Deciding Which Report Option to Use 405
The "Appraisal Report" Option 406
The "Restricted Appraisal Report" Option 407
Ethical Obligations of Reporting 409
When Must an Appraiser Comply with USPAP? 410
Must vs. Should Comply 410
Appraiser 411
Valuation Service 412
Appraisal Practice 413
Expectations 413
When Performing a Valuation Service as an Appraiser 414
When Performing a Valuation Service While in a Role Other Than as an Appraiser 415
General Obligations of USPAP 417
Additional Obligations of USPAP 417
Illustration Helps Explain Appraiser's USPAP Compliance Obligations 418
Personal Property Appraiser Qualification Criteria (PPAQC) 420
New Criteria Adopted 422

CHAPTER 8: ETHICAL STANDARDS OF PROFESSIONAL CONDUCT 423
Code of Ethics 424
USPAP and Ethics 426
Is an Appraiser a "Professional"? 427
Is an Appraiser a "Fiduciary"? 428
Ethical Obligations to Clients 430
The Appraiser-Client Relationship 431
Ethical Obligations to Other Intended Users 434
Ethical Obligations to Colleagues and the Appraisal Profession 436
Ethical Obligations When Giving Testimony 437
Conflict of Interest 437
Fee Structures 440
Misrepresentation in Advertisement or Self-Promotion 444
Unconsidered Opinions of Value 446

CHAPTER 9: RESEARCH 447
Most Appropriate Market 448
Levels of Trade and Market Levels 449
Mandated Market Choice 450
The Research Process 452
Research Resources 457
Field Work 461
A Word About Stolen Art 464

More Than One Appraiser 464
Documenting Resource Evidence 467
Research: Always Required? 468

CHAPTER 10: DESCRIBING PROPERTY 471
Examples of Property Descriptions 478
Combining Items: Describing Groupings, Collections, and Accumulations 481
Describing Groupings 481
Describing Collections 483
Describing Accumulations 483
Archival Material 484
Tips for Describing Property 484

CHAPTER 11: WRITING AN APPRAISAL REPORT 489
Required Content Depends on Which Report Option Used 492
Required Content When Using the "Appraisal Report" Option 493
Required Content When Using the "Restricted Appraisal Report" Option 498
Best Practices: Optional but Recommended Content for all Appraisal Reports 501
Optional Report Design Features 502
Pagination 503
Appraisal Report Structure 504
Letter-Style Report 504
Valuation Section Enclosure 505
Other Enclosures 505
Form-Style Report 505
Appraisal-Specific Information 506
Item-Specific Information 508
Supporting Documentation 509
Appraiser Has Great Flexibility in Report Design 509
Transmittal Letter 510
Cover Letter 511
Sample Appraisal Reports 512
Report Structure Details 513
Sample Wording 514
Software Programs for the Appraiser 521
Personal Property Appraisal Software 522
Gems & Jewelry Appraisal Software 522

CHAPTER 12: THE PROFESSIONAL APPRAISAL PRACTICE 524
Business Development 524
Email Marketing Services 525
Your Business Website 525
Other Online Presence 527
Professional Development 527
Your Curriculum Vitae (Professional Profile) 529
Office Furnishings and Equipment 530
Self-Employed Working from Home 531
Insurance 531
Business Structure 532
Basic Appraiser Techniques 532
Initial Client Contact 532
Follow Up with Additional Information 534
Use a Contract 535
Tax-Related Liability Claims 535
Client Data Form & Assignment Activity Log 536
While on Site 538
Commonly Used Tools of the Appraiser 539
Caution Regarding Toxic Spaces 540
Recording Data While on Site 540

Use Caution when Inspecting Property 541
Making Use of Photographs....542
Delivering the Appraisal Report and Getting Paid 544
Electronically Transmitted Appraisal Reports 546
Retainers....548
Shelf-Life of an Appraisal Report 549
USPAP and the Signed Certification....549
Signature Defined....549
Making Changes to Completed Appraisal Reports....550
Appraisal Updates 550
Client-Requested Revisions....552
Relationship of Current Value to Prior Appraisal 552
Record Keeping....553
Assignment Workfiles....553
Business Records 555
Expert Witness Testimony....555
Being Hired and Trial Preparation 557
Presentation of Testimony or Deposition....559

CHAPTER 13: LEGAL ISSUES AFFECTING THE APPRAISER 561
Bailment 561
Having Good Title....562
Fraud by a Dealer/Appraiser 565
Malpractice (Professional Negligence)....568
Appraiser Liability to Third-Parties....572
Negligent Referral....573
Tax Court Cases: Most Appropriate Market 575
Tax Court Cases: Fair Market Value 577
Tax Court Case: Buyer's Premium....579
Tax Court Cases: Blockage Discount 580
Tax Court Case: After Death Discount....581
U.S. Dist. Court Case: Fractional Interest Discount 581
Tax Court Case: Deduction Allowed for Donation of Contraband....581
Tax Court Cases: Is USPAP Compliance Determinant?....583
Who Owns an Appraisal? 584
Buying or Selling an Appraisal Business....585
Laws Affecting Possession of or Trade in Contraband Property....586

APPENDICES....589
Appendix A: Client Data Form & Assignment Activity Log....591
Appendix B: Appraiser's Log Sheet Continuation Page....592
Appendix C: Contract for Appraisal Services (with Private Party) 593
Appendix D: Contract for Appraisal Services (with Attorney) 594
Contract for Appraisal Services (with Attorney) combining agreement with letter of introduction.596
Appendix E: Expert Witness Engagement Letter (to Attorney) 598
Appendix F: Pre-Appraisal Preparation Checklist....600
Appendix G: Sample Professional Profile 601
Appendix H: Sterling Silver Flatware Inventory....603
Appendix I: Dinnerware Inventory....604
Appendix J: Letter of Introduction: General (to Moving Company) 605
Appendix K: Letter of Introduction: Specific (to Estate Executor) 606
Appendix L: Sample Appraisal Transmittal Letter For a Noncash Charitable Contribution....607
Appendix M: Sample Appraisal Transmittal Letter For Acquiring Replacement Value Insurance Coverage for Scheduled Property 613
Appendix N: Sample Appraisal Valuation Section 620
Appendix O: IRS Form 8283 *Noncash Charitable Contributions Section A* 621
Appendix O: IRS Form 8283 *Noncash Charitable Contributions Section B* 622
Appendix P: IRS Form 706 (Schedule F) United States Estate Tax Return....623
Appendix Q: Tax Regulation §20.2031 and other Federal Estate Tax Issues 625

Appendix R: Treasury Regulation §1.170A-17(a) *Definition of Qualified Appraisal*..... 627
Appendix S: Treasury Regulation §1.170A-17(b) *Definition of Qualified Appraiser*..... 630
Appendix T: Treasury Regulation §1.170A-13(c)(4) *Appraisal Summary*..... 632
Appendix U: Revenue Procedure 65-19 *Retail Sales Prices of Items in Decedent's Estate*..... 635
Appendix V: Revenue Procedure 66-49 *Appraisal Guidelines and Formats*..... 636
Appendix W: Revenue Procedure 96-15 *Post Contribution Pre-Filing Procedure*..... 639
Appendix X: Treasury Regulation §1.170A-16 *Substantiation and reporting requirements for noncash charitable contributions*..... 640
Appendix Y: Pension Protection Act of 2006 *Section 1216*..... 646
Appendix Z: Real Estate Appraisal Form..... 647
Appendix AA: Agreement for an Oral Opinion of Value (Oral Report Summary)..... 648
Appendix BB: IRS Guidance for Donation Appraisals of Art Valued Over $50,000—Object Identification..... 649
Appendix CC: IRS Guidance for Donation Appraisals of Art Valued Over $20,000—Photographs..... 650
Appendix DD: Treasury Regulation §1.170A-18 *Contributions of Clothing and Household Items*..... 651
Appendix EE: Treasury Regulation §1.170A-1(c) *Definition of Fair Market Value*..... 652
Appendix FF: Sample Business Letter Template..... 653
Appendix GG: Seven Essential Deposition Tips..... 654
Appendix HH: Oral Appraisal Report Disclosures Statement..... 656

BIBLIOGRAPHY.....659

GLOSSARY.....663

INDEX.....687

Appraising Personal Property: Principles and Methodology

— 9th Edition —

Introduction

Welcome to the 9th Edition of *Appraising Personal Property: Principles and Methodology*—the only up-to-date, comprehensive, well-organized, practical, easy-to-understand and fully-indexed definitive how-to book for the personal property appraiser.

This 9th Edition incorporates many significant changes, improvements and additions—perhaps the most important of which were brought about by the recent biennial update to the *Uniform Standards of Professional Appraisal Practice* (USPAP) which forms the foundation of this book. The resulting changes that were incorporated by the Appraisal Standards Board into the 2020-2021 edition of USPAP are mirrored throughout this work. Continuing the tradition of past editions, other improvements have also been made including edits resulting from the 2018 finalization of new IRS regulations (some of which involve the definition of "qualified appraisal" and "qualified appraiser") scores of new topics as well as enhanced and expanded discussions.

No other book provides such a thorough grounding in the fundamentals of personal property appraising. This book will teach you the appraisal theory, principles, practices, standards, ethics, methodology and report writing skills associated with preparing professional personal property appraisal assignment reports. And, being fully-indexed, you will be able to quickly and easily find the appraisal-related information you are seeking.

A growing number of people are entering the personal property appraisal profession. Of utmost importance is that they understand the techniques, methodology and standards that lay the foundation for ethical, unbiased, competent, complete, reasoned and well-communicated value opinions, conclusions and analyses. Toward this goal, this work has at its core the appraisal performance requirements and ethical standards of the widely accepted *Uniform Standards of Professional Appraisal Practice* as promulgated by The Appraisal Foundation of Washington, DC.

Appraising Personal Property: Principles and Methodology – 9th Edition provides the most comprehensive yet practical course of instruction available today in the field of personal property appraising. From basic appraisal theory and the standards of USPAP to examples of item descriptions and even sample appraisal reports—this book covers it all. The reader will become knowledgeable in the principles and methodology of professional personal property appraising including terminology, tasks of an appraiser, purposes and intended uses of appraisals, value types and their definitions, IRS regulations, the three approaches to value, the Appraisal Process, problem identification, scope of work, value enhancers and detractors, depreciation, market principles, ethics, identification and authentication, USPAP, market research, describing property, sample appraisals, legal issues impacting the appraiser and much, much more. This book also teaches the reader basic appraisal techniques to facilitate beginning a professional appraisal business or improving an existing one. In short, the reader will be taught the skills necessary to write a complete, clear, concise, well-developed assignment report in conformance with today's generally accepted standards, USPAP.

Appraising Personal Property: Principles and Methodology - 9th Edition is for those who wish to build a personal property appraisal business and/or add appraisal services as an adjunct to an ongoing related line of work. Many personal property appraisers were initially (and probably continue to be) antiques dealers, jewelry store owners, auctioneers, restoration and repair specialists, estate liquidators, brokers, insurance adjusters, downsizing experts or even collectors. They found that their original lines of business are enhanced when professional personal property appraisals are added to the list of services they offer to the public.

Note that this book focuses on appraisal principles and methodology and is not intended to provide product knowledge, i.e., knowledge about the type of property in which the appraiser will be specializing. Such in-depth product knowledge can only be gained through extensive personal experience and study, and through continued observations of the marketplace and relevant market activity. The gaining of product knowledge is a lifelong-learning experience and is not a focus of this book.

Dave Maloney
Frederick, MD

What's New

As with previous editions, this 9th biennial edition of *Appraising Personal Property: Principles and Methodology* is packed with expanded discussions and countless edits which help to improve clarity of complex issues. Changes also include loads of new material— much of which focuses on frequently-encountered issues that have proven to be confusing to appraisers. In addition, since this book is USPAP-centric, it necessarily reflects changes incorporated by The Appraisal Foundation's Appraisal Standards Board (ASB) into the 2020-2021 edition of USPAP which is in effect from January 1, 2020 through December 31, 2021.

Hundreds of changes have been incorporated into to this 9th edition. So that you know what changes have been made since the preceding (8th) edition of this book, I have highlighted the major changes so that they are easy to locate. Just look for this UPDATE icon:



New and Expanded Discussions



Thumb through this book to see all the many edits, expanded discussions and new topics, some of which include:

- Agree to perform assignment
- Appraisal development
- Appraisal practice
- Appraisal problem
- Appraisal process
- Appraisal report content
- Appraisal Report option
- Appraisal reporting
- Appraisal Review
- Appraiser
- Assignment conditions
- Assignment elements
- Assignment results
- Client
- Competency
- Cost
- Draft reports
- Effective date
- Estate of Kollsman v. Commissioner
- Estate tax exemption
- Ethical obligations
- Exposure time
- Federal gift tax
- Hybrid appraisals
- Identify the problem
- Information provided by others
- Intangible articles
- Intangible property (i.e., intangible assets)
- Levels of trade
- Market levels
- Market value
- Mass appraisals
- Misleading
- More than one appraiser
- Oral appraisal reports
- Personal inspections
- Personal property
- Physical characteristics
- Preliminary appraisals
- Public's expectation of appraisers
- Qualified appraisal
- Qualified appraiser
- Real estate
- Real property
- Record keeping
- Relevant characteristics
- Required content of reports
- Restricted Appraisal Report option
- "Similar items" being donated
- Team appraisals
- Workfiles

Footnotes

One of the most significant improvements beginning with the 8th edition of this manual has been the addition of over 600 footnotes. These footnotes provide supplementary information about the topic at hand and will often direct the reader to other parts of this book or to parts of the USPAP publication that contain complimentary discussions.

USPAP Changes



Updates resulting specifically from changes incorporated into the 2020-2021 edition of USPAP can be found sprinkled throughout this book in the relevant locations, particularly in Chapter 7 *Uniform Standards of Professional Appraisal Practice (USPAP)* and Chapter 11 *Writing an Appraisal Report*. These changes were developed by The Appraisal Foundation's Appraisal Standards Board. In addition to edits made for purposes of clarity, consistency and enforceability, changes to USPAP include the following:

- **Reporting requirements**
  New requirements will permit there to be additional intended users besides the client for a Restricted Appraisal Report, as long as the other intended users are named in the report (i.e., not merely identified "by type"). A second change also has to do with Restricted Appraisal Reports. This change simplifies the warning language so that it will no longer include a reference to the appraiser's workfile.

  In addition, for real property appraisal as well as for Appraisal Review reporting, the ASB clarified issues relating to the use of **supplemental certifications**. See USPAP's Standards Rules (SR) 2-3(d) and 4-3(d).

- **Comments in Standards Rules (SR)**
  In the interest of reducing redundancy and streamlining USPAP, some Standards Rules Comments which are clearly stated in more than one location have been deleted; certain Comments containing the word "must" have been moved into USPAP guidance material such as Advisory Opinions or FAQs; certain Comments which are aspirational in nature and not enforceable have been moved into a RULE or into guidance material; and certain Comments which are repeated in Standards Rules for all disciplines have been moved in their entirety to the COMPETENCY RULE.

- **Specific edits for clarity and consistency**
  Revisions were made for the sake of improved clarity and consistency including 1) adding titles to each of the Standards Rules, 2) changing the word "attributes" to "characteristics" in order to be consistent with the new DEFINITION of "Physical Characteristics," and 3) changing the phrase "consistent with" to "appropriate for" in the Standards Rules on report content.

- **Global edits to improve clarity**
  Revisions were made to improve clarity and consistency for the following term or phrase:
  - "Accept an assignment" changed to "perform an assignment"
  - "Intangible items" changed to "intangible assets"

- **SCOPE OF WORK RULE**
  Language has been added to the Disclosure Obligations section of the SCOPE OF WORK RULE to address the broad flexibility afforded the appraiser in the disclosure of scope of work. In addition, a clarification has been made noting that the information disclosed must be appropriate for the intended us of assignment results.

- **COMPETENCY RULE**
  The two following important aspirational Comments have been moved from Standards Rules 1-1, 3-1, 5-1, 7-1, and 9-1, to the COMPETENCY RULE:

  > *Perfection is impossible to attain, and competence does not require perfection. However, an appraiser must not render appraisal services in a careless or negligent manner. This Rule requires an appraiser to use due diligence and due care.*
  >
  > *It is not sufficient for appraisers to simply maintain the skills and the knowledge they possess when they become appraisers. Appraisers must continuously improve their skills and knowledge to remain competent.*

- **DEFINITIONS**
  Several changes were made to the DEFINITIONS section of USPAP. Numerous definitions were edited (some minor, some major) including some having their associated Comments deleted or incorporated into the body of the definition. In addition, several new definitions were added. None were deleted. Here is a list of definitions that were either edited or added:

  - These definitions were edited and/or had their Comments deleted and incorporated into the body of the definition or elsewhere in USPAP:
    - APPRAISAL (Comment edited)
    - APPRAISAL PRACTICE (Comment edited)
    - APPRAISAL REVIEW (minor Definition edits; Comment deleted)
    - ASSIGNMENT CONDITIONS (Comment deleted)
    - ASSIGNMENT RESULTS (minor Definition edits; Comment deleted)
    - CLIENT (minor Definition edits; Comment deleted)
    - COST (minor Definition edits; Comment deleted)
    - EXPOSURE TIME (minor Definition edits; Comment deleted)
    - MARKET VALUE (minor Definition edits; Comment deleted)
    - REAL PROPERTY (Comment deleted)
    - VALUATION SERVICE (minor Definition edits; Comment deleted)
    - VALUE (minor Definition edits; Comment deleted)
    - WORKFILE (minor Definition edits)
    - APPRAISER (major Definition edits; Comment deleted)
    - PERSONAL PROPERTY (major Definition edits)

- These definitions were added.
  - ASSIGNMENT ELEMENTS
  - EFFECTIVE DATE
  - MISLEADING
  - PERSONAL INSPECTION
  - PHYSICAL CHARACTERISTICS
  - RELEVANT CHARACTERISTICS

- **Revisions to ADVISORY OPINION 1, *Sales History***
  Revisions were made to AO-1 in order to provide additional detail related to an appraiser's obligation to analyze the sales history of the subject property.

- **Revisions to ADVISORY OPINION 2, *Inspection of Subject Property***
  Revisions were made to AO-2 in order to provide guidance and illustrations reflecting changes in the marketplace related to an appraiser's inspection of a property.

- **Revisions to ADVISORY OPINION 3, *Update of a Prior Appraisal***
  Revisions were made to AO-3 to clarify an appraiser's obligations regarding confidentiality when performing an update of an appraisal using the "incorporate by reference" option.

- **Revisions to ADVISORY OPINION 28, *Scope of Work Decision, Performance, and Disclosure***
  Revisions were made to AO-28 clarifying that the amount of Scope of Work information must be appropriate for the intended use of the report. In addition, a new Illustration 2 regarding a scope of work problem related to tangible personal property as well as an additional illustration regarding a scope of work problem related to real property were added.

- **Revisions to ADVISORY OPINION 31, *Assignments Involving More than One Appraiser***
  Revisions were made to AO-31 which resulted from the ASB's addition of SIGNIFICANT APPRAISAL ASSISTANCE as a defined term. In addition, revisions were made to Standards Rules 2-3, 4-3, 6-3, 8-3, and 10-3, clarifying that a signed certification must be included in a report and acknowledging that a supplemental certification(s) may be necessary in some circumstances.

- **Revisions to ADVISORY OPINION 32, *Ad Valorem Property Tax Appraisal and Mass Appraisal Assignments***
  The revision to AO-32 includes the addition of Illustration 5, which contains information (on the topic of an appraiser's obligations regarding the quantity and quality of factual

data collected in a mass appraisal assignment) formerly contained in the now-deleted Comment to Standards Rule 5-5(a).

- **Revisions to ADVISORY OPINION 36, *Identification and Disclosure of Client, Intended Use, and Intended Users***
  Revisions were made to AO-36 to clarify the requirements surrounding proper disclosure of the client and other intended users in an Appraisal Report or a Restricted Appraisal Report, particularly in cases where the client has requested anonymity from being noted in the report.

- **ADDITION of ADVISORY OPINION 38, *Content of an Appraisal Report***
  In light of the retirement of Advisory Opinion 11, *Contents of the Appraisal Report Options of Standards 2-2, 8-2, and 10-2*, and Advisory Opinion 12, *Use of the Appraisal Report Options of Standards 2- 2, 8-2, and 10-2*, this new Advisory Opinion 38 will help answer questions about the responsibilities of the appraiser as they relate to USPAP reporting requirements in STANDARDS 2, 8, and 10.

- **Retirement of ADVISORY OPINION 4, *Standards Rule 1-5(b)*; ADVISORY OPINION 11, *Content of the Appraisal Report Options of Standards Rules 2-2, 8-2, and 10-2*; and ADVISORY OPINION 12, *Use of the Appraisal Report Options of Standards Rules 2-2, 8-2, and 10-2***
  AO-4 has been retired since its guidance (viewed as narrowly-focused) is more appropriately housed in the USPAP Frequently Asked Questions. AO-11 and AO-12 have been retired and replaced with AO-38.

Expanded Table of Contents and Index

Looking for a specific topic? Check out the extensive **Table of Contents** and **Index** of this book! I guarantee that you will be impressed with the level of detail provided to help you with your search.

All these features and updates make this 9th edition of *Appraising Personal Property: Principles and Methodology* the only comprehensive, user-friendly and up-to-date course book/how-to guide for the personal property appraiser.

Chapter Synopses

Appraisal Terminology

- **Chapter 1**: The use of specific nomenclature within the field of personal property appraising is critical to presenting as well as understanding the information associated with the Appraisal Process and contained within assignment reports that are developed by the professional appraiser. Chapter 1 covers terms commonly used by appraisers including many of those important terms emphasized within the *Uniform Standards of Professional Appraisal Practice* (USPAP). A brief introduction to these specific terms is provided at the beginning of this work so that the reader becomes immediately familiar with the basic terminology which forms the foundation of what follows. Finally, the seven steps of the all-important and aforementioned "Appraisal Process" are briefly analyzed (steps ranging from initially "defining the appraisal problem" to preparing the final appraisal report). The Appraisal Process will also be covered in greater detail in Chapter 7 *Uniform Standards of Professional Appraisal Practice (USPAP).*

Appraisal Principles

- **Chapter 2**: Chapter 2 introduces the various types of appraisal tasks the appraiser is likely to encounter. The appraiser is often asked to determine value (monetary worth) such as fair market value, fair value (for business assets and liabilities), orderly liquidation value, or perhaps investment value, i.e., the present worth of monies that are anticipated to be received in the future from an investment property. The concept of value, the different types and definitions of value, and the importance of identifying the type and definition of value used in an appraisal assignment are discussed. Chapter 2 also focuses on another important appraisal task—estimating costs. Specifically, terms such as replacement cost (new), replacement cost (comparable), replacement cost (new reproduction), replacement cost (new production), and replacement cost (new) less depreciation will be discussed.[1] Chapter 2 also introduces the reader to "walk-throughs" which is a term commonly used to refer to certain types of on-site oral appraisal reports.



- **Chapter 3**: Chapter 3 focuses primarily on the important issue of **scope of work**. In basic terms, scope of work is the degree or amount of work an appraiser performs to arrive at **credible** assignment results. The options for the appraiser to personally inspect the property or not to inspect the property are discussed. Appraisal purposes and intended uses of appraisals are explained. The chapter familiarizes the reader with the concept of ownership rights and with the three different kinds of property—investment property, marketable non-investment property, and service property. Contraband property is also discussed. This chapter describes the three primary kinds of values including investment value, market value, and owner value. The reader will also learn about the three approaches to value (sales comparison, cost, and income approaches) as they are used to determine the monetary worth of various types of

[1] Though not covered in Chapter 2, appraisers are at times also requested to perform "appraisal reviews," i.e., a review of another appraiser's work product. The subject of appraisal reviews is covered in the two Chapter 7 sections entitled *STANDARD 3 Appraisal Review, Development* and *STANDARD 4 Appraisal Review, Reporting*.

personal property for various intended uses of the appraisal report.

- **Chapter 4**: Chapter 4 focuses on the various "intended uses" of appraisal reports, i.e., the various manner in which appraisal reports are used by the client and other intended users. Examples are for acquiring insurance coverage, or for making a noncash charitable contribution to a local museum, or for litigation purposes. In the discussion of federally-related intended uses, the reader is introduced to IRS appraisal-related regulations including requirements for what constitutes a "qualified appraiser" as well as what constitutes a "qualified appraisal." Other intended uses are also discussed including for liquidation, equitable distribution, divorce, federal estate taxes, casualty losses, estates and trust management, and collateralized loans.

- **Chapter 5**: All items of personal property exhibit characteristics which render them relatively more desirable or less desirable to marketplace participants. Chapter 5 explains relevant property characteristics, value creators and value detractors such as depreciation caused by obsolescences and/or physical deterioration. Chapter 5 also discusses the critical dates which are important to understand and document such as effective date of the appraisal and date of the report. The relationship of those two dates determines whether an appraisal is "current," "retrospective," or "prospective." Fractional, contingent, hypothetical, preliminary, hybrid and draft appraisals are also discussed as are making use of specialist appraisers, team assignments, using photographs in lieu of a personal inspection, oral reports, limiting conditions, hypothetical conditions and extraordinary assumptions. Three types of value discounts which might tend to reduce estate tax obligations are discussed: after death discounts, fractional interest discounts and blockage discounts. Making use of photographs and other client-provided information when a personal, on-site inspection is not possible is also covered as is the related topic of online Internet appraisals.

- **Chapter 6**: Appraisers rely on several marketplace principles as well as principles relating to property itself as a basis for the appraisal process in which value opinions are developed. Chapter 6 introduces the reader to such principles as most appropriate market, highest and best use, supply and demand, and the principles of substitution, qualitative ranking, marginal utility, sampling, contribution and more. The reader will also learn the difference between identification and authentication, about due diligence in authenticating property, and when the appraiser is permitted to make use of the concept of readily apparent identity in lieu of a formal authentication. Appraisal report disclaimers and terms of use that limit the appraiser's liability and that stipulate limitations as to how and by whom the appraisal report can be used are also discussed.

Uniform Standards of Professional Appraisal Practice (USPAP)

- **Chapter 7**: The goal of USPAP is to preserve the public's trust in the appraisal profession. Chapter 7 is a mini-course in USPAP. It's a course-within-a course. Chapter 7 will teach the reader the importance of USPAP standards for performing competently and ethically when acting in the role of an appraiser. This chapter will introduce the reader to the history and structure of The Appraisal Foundation (TAF) and to the TAF's *Uniform Standards of Professional Appraisal Practice* including USPAP's PREAMBLE, DEFINITIONS, five RULES (ETHICS RULE,

COMPETENCY RULE, RECORD KEEPING RULE, SCOPE OF WORK RULE, and the JURISDICTIONAL EXCEPTION RULE), ten (10) STANDARDS, and associated Comments. The reader is also introduced to what TAF refers to as "other communications" which include Advisory Opinions (AO), Frequently Asked Questions (FAQ), and USPAP Q&A.[2] Also discussed is the individual's responsibility to comply with USPAP when performing "appraisal practice" as an appraiser as opposed to when providing a different type of "valuation service" while performing outside the role of an appraiser such as when performing as an auctioneer, antiques dealer or estate liquidator. The differences between Valuation Service and Appraisal Practice, the two USPAP appraisal report options,[3] and the Appraiser Qualification Board's (AQB) *Personal Property Appraiser Qualification Criteria* are also covered.



Chapter 7 also describes what USPAP refers to as the all-important "**Appraisal Process**" including the specific steps appraisers must take to help ensure credible assignment results (reported in a meaningful and non-misleading manner) that conform to the standards and requirements of USPAP. Chapter 7 also focuses on when USPAP applies to the individual while performing as an appraiser as well as while performing as a non-appraiser.

Though thorough, Chapter 7 is not a substitute for taking the 15-hour National USPAP Course and passing its associated exam. By state law, the 15-hour course is required of every real property appraiser, but the course is not required by the states for personal property appraisers. While passing such a course is not required by the states for personal property appraisers, all major professional personal property appraisal societies do require that their members take the 15-hour National USPAP Course and pass the exam.[4]

Ethical Standards of Professional Conduct

- **Chapter 8**: In a way, Chapter 8 is an extension of the topic of ethics that, as was noted in Chapter 7, is central to USPAP. Chapter 8 provides a more general overview of the need for ethical behavior and how personal values, societal codes of ethics and USPAP combine to provide the appraiser with the guidance needed to perform in a manner that will preserve the public's trust in the profession of appraising. Chapter 8 addresses several real-world appraiser obligations such as specific obligations to the client (including the appraiser-client relationship), to intended users other than the client, to colleagues and the appraisal profession as a whole, and while giving testimony. This chapter will also provide the appraiser with an understanding of additional ethics-related issues such as conflicts of interest, unconsidered opinions, ethical and unethical fee structures, and the prohibition against misrepresentation of one's appraisal qualifications or professional designations.

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[2] Note that as of the 2016-2017 edition of USPAP, all STATEMENTS ON APPRAISAL STANDARDS (SMT) had been retired. As a result, SMTs are no longer discussed in this book.
[3] The two USPAP appraisal report "options" include the **Appraisal Report** option and the **Restricted Appraisal Report** option.
[4] There are two versions of the 15-hour National USPAP Course—one for real property appraisers and one for personal property appraisers. Personal property appraisers should take the personal property version taught by a personal property appraiser who must be certified to teach USPAP courses by TAF's Appraiser Qualifications Board (AQB).

Research

- **Chapter 9**: Chapter 9 focuses on market and value research and analysis and covers the research process as well as research resources that are typically used by the personal property appraiser. Chapter 9 demonstrates how appraisers objectively develop the bases for their opinions, analyses and conclusions, including how much research to do and when confirming research might not even be required! Usually, opinions of value are based on an analysis of comparable properties that have been sold or are being offered for sale within the relevant marketplace. Specific value resources such as retail outlets, Internet websites and auctions will be discussed. Product knowledge resources such as authenticators, museum curators, appraiser colleagues, experts, dealers, collectors and collector clubs, authors, restorers, trade periodical editors, etc. will also be covered. Documenting and disclosing (in accordance with the requirements of USPAP) those other appraisers who have provided significant personal property appraisal assistance with an assignment is also discussed in this chapter.

Describing Property



- **Chapter 10**: Chapter 10 emphasizes the important issues of property description including identifying the property or property type and describing the property's value-relevant quality, economic and physical characteristics in a meaningful manner—the degree and detail of which is dependent on the intended use of the appraisal, on the needs of the client and other intended users, and on the potential value level of the item being appraised. Examples of descriptions for various categories of property are provided as are tips for describing groupings, collections and accumulations of property. This chapter explains how the intended use of an appraisal and the USPAP report format option employed (i.e., either the Appraisal Report or Restricted Appraisal Report format) impacts the extent and detail of information that must be contained in a report, including the detail to which the subject property must be described.

Writing an Appraisal Report

- **Chapter 11**: For the novice, putting together an actual appraisal report based strictly on theory and principles and without examples is difficult, to say the least. Chapter 11 overcomes that challenge by listing the USPAP-required elements of appraisal reports and by giving examples of how those elements of information might actually be worded. In addition to the USPAP-required elements of information, the reader will also learn of several optional "best practices" elements which experience has taught us would be beneficial to add to the appraisal report as well.

The Professional Appraiser

- **Chapter 12**: This chapter focuses on the more basic of those issues and strategies which are unique or particularly applicable to the personal property appraisal profession including business development, preparing a curriculum vitae (professional profile), professional development, office equipment, tools of the appraiser and basic appraiser techniques such as communication with the client, what

to do while on site, using caution during the inspection to avoid damaging the subject property, making use of photographs in lieu of a personal inspection, delivering the assignment report, getting paid, appraisal updates, and the requirements for maintaining assignment workfiles and other business-related records. In addition, the reader will learn about issues relating to expert witness testimony including working with attorneys, preparing for trial, and tips on giving testimony either at a deposition or at trial.

Legal Issues Affecting the Appraiser

- **Chapter 13**: As with any profession, it's good for the personal property appraiser to be conversant in legal issues that have impacted the profession in the past and/or which act as guideposts to help the individual avoid legal pitfalls as they practice their profession. Having said that, appraisers are not attorneys or paralegals. Nor are they legal researchers or consultants regarding the law. Just as it is not the appraiser's responsibility to advise clients on legal matters, draft legal documents, or represent clients in court, neither is it the appraiser's responsibility to spend excessive time conducting legal research in law libraries or on Internet law websites. But being familiar with landmark cases which have impacted our profession and understanding the issues raised and the decisions concluded does make for a better, all-around professional.

  Supplemented by reviews of relevant case law, Lesson 13 briefly introduces the appraiser to legal issues which impact the individual who is acting in the role of an appraiser. But appraisers also perform in other roles outside that of an appraiser. As examples, many appraisers are also dealers, jewelry store owners, auctioneers, downsizing experts, restoration specialists and estate liquidators. When wearing those other hats, appraisers may be faced with legal issues which do not normally attach when performing strictly as an appraiser. However, we will not spend time discussing legal matters which normally do not apply to the personal property appraiser, regardless of how significant they may be to other types of personal property related endeavors. For instance, there are issues of contract, commercial and agency law with which other professions must be aware but which do not normally impact the appraiser. Included are matters regarding commercial transactions, consignment sales, auction sales, warranties, fraud, disparagement, and performing as an agent on a principal's behalf—none of which are matters of primary concern to the personal property appraiser.

  Instead, we will limit our discussion to the legal issues with which the appraiser might become involved. These most commonly include issues relating to bailment, title, negligence and malpractice, fraud by a dealer/appraiser, appraiser liability to third-parties, and, albeit extremely rarely, negligent referrals. Several tax court cases will also be summarized to help us better understand issues to which the IRS is sensitive such as choice of appropriate market, fair market value, and valuation discounts.

Chapter 1: Appraisal Terminology

The appraisal of personal property has historically played an important part in society as a means of determining value for a variety of intended uses. Examples of such uses include:

- Acquiring adequate insurance coverage
- Determining the amount of a decedent's estate tax liability
- Confirming a contemplated sale or purchase price
- Dividing property equitably
- Determining the amount of a noncash charitable contribution deduction
- Resolving legal disputes
- Ascertaining an equitable settlement amount in the case of a casualty loss or transit-related damage
- Determining the fair market value of a casualty loss for income tax deduction purposes

The use of specific nomenclature within the field of personal property appraising is critical to presenting, as well as understanding, the information contained within assignment reports developed by the appraiser. The following is a terminology subset with which it is best to become familiar at the beginning of this book. Many of these terms or concepts will be expanded on later in this book, but an initial introduction at this juncture will facilitate your learning experience. The Glossary to this book provides a general list of these as well as additional terms commonly used by appraisers in their daily practice.[5]

USPAP

USPAP is an acronym for the ***Uniform Standards of Professional Appraisal Practice***—a set of biennially[6], [7] updated ethical and performance requirements promulgated by The Appraisal Foundation of Washington, DC.

These standards were first developed in 1987 and have been adopted by all major appraisal organizations in North America. USPAP is amended, updated and interpreted by The Appraisal Foundation's Appraisal Standards Board (ASB). USPAP has become the recognized and generally accepted standard of appraisal practice for all three appraisal disciplines: real property, personal property, and businesses (i.e., business enterprises or intangible assets).

USPAP's purpose is:

> *...to promote and maintain a high level of public trust in professional appraisal practice.*

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[5] See the Chapter 7 section entitled *DEFINITIONS* for the meaning of USPAP-related terms that are often not found in popular dictionaries. If there are multiple dictionary definitions for a particular term, the USPAP DEFINITIONS section highlights which term is meant to be used.

[6] For more information about The Appraisal Foundation and about USPAP (including how to purchase a copy of the USPAP publication) visit appraisalfoundation.org.

[7] Appraisers must comply with the edition of USPAP in effect as of the date of the appraisal or appraisal review report. (2020-2021 USPAP FAQs #1 and #160)

In doing so, USPAP:

- Provides guidance to the professional appraiser, and
- Provides the public with a gauge by which to measure the appraiser's professionalism and the quality of his or her work product.

USPAP has been thoroughly incorporated throughout this book, i.e., the appraisal techniques and methodology presented in this book have been written to be consistent with the most current edition of USPAP which will be cited frequently.

This book covers personal property related sections of USPAP in substantial detail in Chapter 7 *Uniform Standards of Professional Appraisal Practice (USPAP).* At this point in the book, however, you need to be aware that the USPAP publication[8] establishes ethical and performance requirements and provides guidance for the appraiser who performs primarily two types of assignments: **appraisals** and **appraisal reviews** (i.e., the review of the work of another appraiser.)

USPAP also establishes requirements for the appraiser when the appraiser is performing other types of less-often encountered appraisal practice services as well, such as when writing appraisal text books, teaching appraisal classes, or other types of services related to valuations such as rendering significant appraisal assistance to another appraiser.[9]

What is Public Trust?

Public trust is the ability for the public to have confidence that services provided by the appraiser are done so in a competent, independent, objective and impartial manner. While "the public" obviously includes the appraiser's client and other intended users of the assignment results, the public also includes the general public as well. The economy would suffer greatly if the general public lacked confidence that appraisal professionals were providing credible results in an independent and unbiased manner.

Supplemental reading:

- USPAP and, in particular, its PREAMBLE
- Chapter 7 *Uniform Standards of Professional Appraisal Practice (USPAP)*

The Market

A market (in this book we use the terms "market" and "marketplace" interchangeably) is not a geographical place, rather it is a concept representing where buyers and sellers meet to exchange goods for money, or its equivalent. Selecting the **most appropriate market** to research (in order

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[8] The USPAP "publication" consists of the PREAMBLE, DEFINITIONS, 5 RULES, 10 STANDARDS and their respective Standards Rules (SR), Comments, Advisory Opinions (AO), and Frequently Asked Questions (FAQ). Note that these USPAP-related terms and acronyms will be used throughout this book.
[9] See Chapter 7 *Uniform Standards of Professional Appraisal Standards (USPAP)* for a guide to those parts of USPAP specifically impacting the personal property appraiser.

to locate the appropriate data necessary on which to form a basis of one's opinions and conclusions) is of paramount importance to every market value appraisal assignment.[10]

Appraisal

So, what is an appraisal? In brief, an appraisal offers a **reasoned opinion of a defined type of value as of a given date.**[11]

In the early 1980s, the North American Conference of Appraisal Organizations (NACAO) (consisting of eight leading real property appraisal organizations in the U.S. and Canada) originally defined an appraisal as:

> *A written statement, independently and impartially prepared by a qualified appraiser, setting forth an opinion of defined value of an adequately described property, as of a specific date, supported by the presentation and analysis of relevant market information. (NACAO)*

The eight organizations of the NACAO eventually created The Appraisal Foundation which, by means of its promulgation of the *Uniform Standards of Professional Appraisal Practice*, now defines an appraisal as:

> *APPRAISAL: (noun) the act or process of developing an opinion of value; an opinion of value. (adjective) of or pertaining to appraising and related functions such as appraisal practice or appraisal services.*
>
> *Comment: An appraisal is numerically expressed as a specific amount, as a range of numbers, or as a relationship (e.g., not more than, not less than) to a previous value opinion or numerical benchmark (e.g., assessed value, collateral value).*[12]

Though today USPAP's definition predominates, taken together, both of the above definitions of an appraisal serve to highlight issues that are significant to understand when developing a credible opinion of value and when communicating that opinion to the client and to other intended users of the report:

- **Impartial Appraiser**: The appraiser must be without advocacy and must be unbiased, i.e., the appraiser must be independent and objective. The appraiser must not be biased towards the client, towards other intended users of the appraisal report, or towards the subject property itself. In addition, the appraiser must not stand to gain financially based on or as a result of the value opinion offered. The appraiser must not be an advocate and must remain neutral during the entire appraisal process.

- **Qualified Appraiser**: The person rendering the appraisal must be competent in both the property type being appraised (e.g., jewelry, antiques, machinery & equipment, or fine art) as well as in appraisal principles and in the methodology and techniques of

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[10] See the below section of this Chapter entitled *Market* for an expanded discussion.
[11] See the Chapter 5 section entitled *A Rose by any Other Name: VAVs, EOVs and POVs are all "Appraisals"* for a related discussion.
[12] See USPAP STANDARD 7 *Personal Property Appraisal, Development* and STANDARD 8 *Personal Property Appraisal, Reporting* for guidance regarding personal property appraisals.

developing the requisite opinions or conclusions and communicating those assignment results to the client and other intended users of the report.

- **Numerical Expression of Value**: USPAP states that an appraisal is numerically expressed as a specific amount, as a range of numbers, or as a relationship (e.g., not more than, not less than) to a previous value opinion or numerical benchmark.[13]

- **Defined Value**: The type of value being developed by the appraiser must be defined as there are important differences among the various types of value. The client and other intended users of the report must be made aware of the type (and definition) of the value opinion being developed by the appraiser so the report can be properly understood. Is it fair market value? forced liquidation value? marketable cash value? Is it a type of market value at the wholesale level of trade? At the retail level of trade? Or is it some sort of "cost," such as replacement cost or repair cost?[14]

- **Adequate Description**: The relevant characteristics[15] must be identified and described in a manner that is relevant to the type and definition of value being used and to the intended use of the appraisal. The manner in which the items are described must also take into consideration the needs of the client and other intended users of the appraisal report.

- **Specific Date**: The opinion of value must be assigned as of a specific point in time. This date is known as the **effective date** of the appraisal.

- **Opinion Supported**: Data as well as its analysis that are adequate to support the appraiser's value opinions or conclusions and that are appropriate for the assignment's intended use and scope of work must be included within the appraisal report and/or in the assignment workfile.

International Valuation Standards Council: Appraisal = Valuation

Internationally, the term **appraisal** is synonymous with **valuation**. The International Valuation Standards Council (IVSC) (ivsc.org) is a London-based independent, not-for-profit, private sector organization established as an international standard-setting organization with as its goals the development and maintenance of standards (it publishes the *International Valuation Standards*) for the reporting and disclosure of "valuations"— in particular those valuations that will be relied upon by investors and other third-party stakeholders for many types of assets, including real

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[13] An example of expressing an appraisal as a "relationship" might be if a client simply wanted to know if the market for a previously-appraised property had changed; or whether the value of the property has remained the same, increased or decreased since the prior appraisal. In making a determination one way of the other, the appraiser is performing an **appraisal** as defined in USPAP, so must comply with all relevant USPAP obligations.

[14] There are important differences between "value" and "cost" which we will address later.

[15] Note that property characteristics include all of the property's quality characteristics, economic characteristics and physical characteristics; however, the type of property, the type and definition of value being developed, the intended use of the appraisal and the needs of the intended users determine which of those property characteristics will have a material effect on value.

estate, plant and equipment, intangible assets and business enterprises, and for different applications such as accounting, financial reporting and bank lending.[16]

Is an Appraisal a Legal Document?

Appraisals are **not** legal documents. Legal documents are documents that state some contractual relationship or grant some right. Examples include wills, deeds and buy/sell contracts. An appraisal is not a legal document per se; however, appraisals may be admissible as evidence in certain types of court cases. A written appraisal may also be used to support legal actions, such as an insurance claim dispute, and appraisals are also frequently used in divorce, bankruptcy, liquidation, and probate estate review procedures.

The Term *Appraisal* is not the Same as *Appraisal Report*

Do not use the terms *Appraisal* and *Appraisal Report* interchangeably. An appraisal is an opinion of value. An appraisal report is the communication of that opinion (transmitted either in writing or orally) to the client upon completion of an assignment.

Appraisal Reviews

On occasion, the appraiser will be asked to develop and report an opinion regarding another appraiser's work product. Such an assignment if referred to by USPAP as an *Appraisal Review* which USPAP defines as:



APPRAISAL REVIEW: (noun) the act or process of developing an opinion about the quality of another appraiser's work (i.e., a report, part of a report, a workfile, or some combination of these), that was performed as part of an appraisal or appraisal review assignment; (adjective) of or pertaining to an opinion about the quality of another appraiser's work that was performed as part of an appraisal or appraisal review assignment.[17]



When conducting an appraisal review, the reviewing appraiser must refrain from showing bias regarding the appraiser whose work is under review in order to ensure objectivity and impartiality. The reviewing appraiser should focus on the work product rather than on the appraiser being reviewed. (2020-2021 USPAP #360)

Mass Appraisals

A mass appraisal values a large number of properties making use of statistical methodology. The mass appraisal methodology is seldom used by the personal property appraiser. USPAP defines *Mass Appraisal* as:

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[16] See the Chapter 2 section entitled *Value Types Used by Appraisers* for a related discussion regarding "fair value."

[17] See USPAP STANDARD 3 *Appraisal Review, Development* and STANDARD 4 *Appraisal Review, Reporting* for guidance regarding appraisal review assignments. See also the Chapter 7 sections entitled *STANDARD 3 Appraisal Review, Development* and *STANDARD 4 Appraisal Review, Reporting.*

MASS APPRAISAL: the process of valuing a universe of properties as of a given date using standard methodology, employing common data, and allowing for statistical testing.[18], [19]

Assignment Results

Assignment Results[20] is a key term defined by USPAP. USPAP defines *Assignment Results* as:



ASSIGNMENT RESULTS: An appraiser's opinions or conclusions, not limited to value, that were developed when performing an appraisal assignment, an appraisal review assignment, or a valuation service other than an appraisal or appraisal review.

Comment: Physical characteristics are not assignment results.[21]

While many appraisers typically consider the identification of an appraised property as being assignment results and, therefore, to be confidential information[22], in the above definition the property's **physical characteristics** are specifically declared to **not** be assignment results; consequently, the appraiser is not prohibited from sharing the physical characteristics of an appraised property with others, such as with another appraiser. Doing so helps ensure higher quality appraisals.

Physical characteristics differ from assignment results. Assignment results are the appraiser's **opinions** and **conclusions** and require the appraiser to apply some level of judgment or analysis. Physical characteristics, on the other hand, are not opinionated—they are **observable** and **measurable** facts. Physical characteristics of the subject property can be shared with others since they are not considered to be assignment results (i.e., they are not "opinions" or "conclusions"); however, assignment results (such as a value conclusion or an opinion as to the cause of damage) **are** opinions so cannot be shared with others.[23]

Note that USPAP's ETHICS RULE requires the appraiser to act in good faith when communicating assignment results and prohibits the appraiser from disclosing assignment results to anyone other than the client, persons specifically authorized by the client, state appraiser regulatory agencies (for real property appraisers only), third-parties as authorized by due process of law, or a duly authorized professional peer review committee.



[18] See the Chapter 4 section entitled *Ad Valorem Property Tax Appraisals* for a related discussion regarding the use of mass appraisals when valuing real and personal property.
[19] See the Chapter 7 section entitled *STANDARD 5 Mass Appraisal, Development* and *STANDARD 6 Mass Appraisal, Reporting*
[20] Whether or not assignment results are credible is always measured in the context of the intended use of the assignment. This means that credibility is relative, not absolute. Assignment results that are credible for one intended use may not be credible for another intended use. (2020-2021 USPAP FAQ #170)
[21] For more regarding physical characteristics, see the Chapter 5 section entitle *Physical Characteristics (Internal Forces that Affect Value)*
[22] See the Chapter 8 section entitled *The Appraiser-Client Relationship* for a complimentary discussion regarding the confidentiality of assignment results. In particular, note how linking the identification of the appraised property to the identity of the client affects whether or not the appraiser should disclose property identifications to third parties.
[23] For examples of physical characteristics for personal property see the Chapter 5 section entitled *Physical Characteristics (Internal Forces that Affect Value)* and the Chapter 10 section entitled *Three Goals When Describing Property.*

Personal Inspections

Inspections of the subject property are required in order for the appraiser to gather information about those property characteristics that are relevant to the property's value. In most (but not all) appraisal assignments it is the personal observations of the appraiser that are the primary source for this information. In some cases, however, inspections are not performed by the appraiser signing the report; rather, the client, another appraiser or a third-party expert might be the one(s) providing information to the appraiser about the property's **relevant characteristics**.[24]



Note that this is the first time the term "*relevant characteristics*" is used in this book. First defined by USPAP in its 2020-2021 edition, relevant characterizes is an all-encompassing term referring to any feature or attribute of a property that affects either its value or its marketability.[25]

Specifically, USPAP defines *Relevant Characteristics* as:

> *RELEVANT CHARACTERISTICS: features that may affect a property's value or marketability such as legal, economic, or physical characteristics.*

USPAP defines *Personal Inspection* as:[26]

> *PERSONAL INSPECTION: A physical observation performed to assist in identifying relevant property characteristics in a valuation service.*
>
> *Comment: An appraiser's inspection is typically limited to those things readily observable without the use of special testing or equipment. Appraisals of some types of property, such as gems and jewelry, may require the use of specialized equipment. An inspection by an appraiser is not the equivalent of an inspection by an inspection professional (e.g., a structural engineer, home inspector, or art conservator).*

Note the following:

- The definition of *Personal Inspection* requires that a physical observation be made, but there is no requirement that the observation be made by the signing appraiser—perhaps it was made by an assisting appraiser or a third-party expert such as a jeweler or a painting conservator.

- The goal of inspections is for the appraiser to "identify" (using whatever means are available) the property's relevant characteristics to the degree necessary in order to produce credible assignment results given the intended use of the appraisal.

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[24] See the Chapter 3 section entitled *Inspection vs. Non-Inspection* for further discussion.
[25] The inclusion of the word "marketability" is most appropriate. The physical characteristic of size, for instance, often negatively impacts the marketability of items such as palace vases, oversize Oriental rugs and large furniture in excess of 8' tall. See the Chapter 5 section entitled *Relevant Property Characteristics Affecting Value*.
[26] This definition was added to clarify the term "inspection" or "personal inspection" as used in USPAP from other types of inspection that requires a different type of inspection from what the appraiser does such a "home inspection."

- In cases where the property is no longer available for inspection (e.g., a fire loss or theft), the appraiser might even make use of client-provided sales receipts, past-appraisals, sketches or photographs in order to identify the property's relevant characteristics.

- What happens if the assignment conditions are such that the appraiser is unable to obtain adequate information about the property's relevant characteristics through a personal inspection or from sources the appraiser deems reliable? In such cases, the appraiser has three options:

    - Work with the client to modify the assignment conditions in order to expand the scope of work so that adequate information can be acquired, or

    - Use extraordinary assumptions about information that is uncertain (but only if doing so will allow credible assignment to be developed), or

    - Withdraw from the assignment.

Supplemental reading:

- USPAP Advisory Opinion 2 *Inspection of Subject Property*

Reports

USPAP notes that the purpose of a "report" is to communicate the appraiser's opinions, analyses or conclusions to the client, such as when performing an appraisal assignment or an appraisal review assignment. When used to communicate the results of an **appraisal** assignment, the report typically contains the appraiser's opinion of value. Reports can be either in writing or they can be provided **orally**. USPAP defines a *Report* as:

> *REPORT: any communication, written or oral, of an appraisal or appraisal review that is transmitted to the client or a party authorized by the client upon completion of an assignment.*

Note that there is a definite difference between an "appraisal report" and an "appraisal." An appraisal is an opinion of value, but an appraisal report is the communication of that opinion of value[27] to the client upon completion of the assignment. In other words, an "appraisal" is the opinion itself. An "appraisal report" is the transmission of that opinion to the client.[28]

Oral Reports



Oral appraisal reports and oral appraisal review reports, like their written counterparts, transmit assignment results to the client upon completion of an assignment—only with oral reports the results are transmitted verbally as opposed to being in written form.[29]

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[27] An appraisal is defined as an opinion of value so, at a minimum, an appraisal report contains an opinion of value; however, an appraisal report can additionally contain other opinions, conclusions and analyses depending on the intended use of the report as well as the needs of the client and other intended users.
[28] Reports can be communicated to the client in various ways: type-written in hard copy form, electronically such as via a PDF file attached to an email, or even communicated orally.
[29] See the Chapter 5 section entitled *Oral Appraisal Reports.*

USPAP SR 8-4 *Oral Appraisal Reports* contains guidance regarding oral **appraisal** reports. It states that, to the extent that it is both possible and appropriate, oral appraisal reports must address the **substantive matters** of an Appraisal Report as set forth in SR 8-2(a) which reflects the required elements of information for a written Appraisal Report.[30]

Examples of Oral Appraisal Report Uses

Oftentimes appraisers involved with litigation-related assignments will be asked to offer oral expert testimony regarding their appraisal-related opinions and conclusions in a court of law. That is one common example of an appraiser giving an oral appraisal report. Here are some other instances in which the appraiser might deliver his or her opinions, conclusions and analyses orally:

- When the client does not need a formal written report such as a client just wanting a "ball park" estimate of the value of several boxes of items recently inherited from a grandparent.[31]

- An attorney hires an appraiser to prepare an oral report and then discusses the report with the appraiser. The attorney determines that the appraiser's value opinions will not be helpful to his client. As a result, the attorney does not want to pay for the report being put into a written form.

- In some instances (such as a contentious divorce or other types of litigation), the client might not want value opinions in writing as they might be "discovered" by the opposing side during legal proceedings, so instead orders an oral report.

- Perhaps the most visible use of oral appraisal reports occurs during televised antiques appraisal programs or during a local Historical Society's "Appraisal Day" fundraiser.

Workfile

An appraiser must prepare a workfile for each appraisal or appraisal review assignment, and it must be in existence prior to the issuance of any report. The workfile must contain a true copy of all reports. For an oral assignment, a written summary of the oral report must be added to the workfile within a reasonable time after its issuance. USPAP defines *Workfile* as:



WORKFILE: data, information, and documentation necessary to support the appraiser's opinions and conclusions and to show compliance with USPAP.

USPAP contains a RECORD KEEPING RULE which establishes the workfile requirements for appraisal and appraisal review assignments.[32], [33]

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[30] The Chapter 7 section entitled *Appraisal Report Options* discusses report content for the two appraisal report options available to the appraiser—the Appraisal Report option and the Restricted Appraisal Report option.
[31] See the Chapter 2 section entitled *Walk-Throughs.*
[32] The RECORD KEEPING RULE as well as its workfile requirement applies only to **appraisal** and **appraisal review** assignments. For other assignments, there are no USPAP workfile or record keeping

An appraiser's assignment workfile preserves evidence of the appraiser's compliance with USPAP and preserves other information as may be required to support the appraiser's opinions and conclusions. For **real property** appraisers, the workfile serves to facilitate enforcement of USPAP compliance by state regulatory agencies. The workfile also facilitates the appraiser answering questions that might be posed by a duly authorized peer review committee or by the client or other intended users following the issuance of the report.[34]

Appraiser

An appraiser is an individual who develops opinions of value while **under assignment** to a **client** who has the **expectations** of being provided a service by **one holding him- or herself** out to be an appraiser. Under USPAP, a credential awarded by a parent appraisal society is **not** what makes someone an appraiser—it's the client's **expectation** of competency, independence, impartiality and objectivity that defines one as being an appraiser. This point is noted in USPAP which defines an *Appraiser* as:

> *APPRAISER: one who is **expected** to perform valuation services competently and in a manner that is independent, impartial, and objective.* [**emphasis** added]



Some individuals might be compelled to comply with USPAP by law or regulation (such as is the case with real property appraisers), or by a parental appraisal society mandate, or by those required by agreement with a client to comply (such as would be the case if the bank trustee by whom you were retained required that you to write to USPAP). In addition, if you represent yourself as an appraiser (i.e., if you hold yourself out to the public as one offering appraisal services) who complies with USPAP, then you must do so!

While real property appraisers are required to be tested, licensed and certified by each state in the Union, such is not the case with personal property appraisers. Indeed, anyone can claim to be a personal property appraiser regardless of his or her level of testing, education or experience. This lack of a requirement for even the most basic demonstration of ability has resulted in problem appraisals that The Appraisal Foundation's (TAF) Appraiser Qualifications Board (AQB) addressed in 1998 when it adopted the first **voluntary** *Personal Property Appraiser Qualification Criteria (PPAQC).* The second (and current) edition of PPAQC was adopted and took effect January 1, 2018. See the section entitled *Personal Property Appraiser Qualification Criteria (PPAQC)* in Chapter 7 for a detailed discussion regarding the criteria.

Three Primary Tasks of the Appraiser

It is worth emphasizing that an appraiser is typically faced with three primary personal-property worth-related tasks. The appraiser may be asked to:

- **Develop an opinion of the value** of an item, or

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requirements. By the way, the SCOPE OF WORK RULE is another part of USPAP that also applies **only** to appraisal and appraisal review assignments.

[33] There is nothing in USPAP that would prohibit an appraiser from maintaining only electronic versions of the workfile. (2020-2021 USPAP FAQ #100)

[34] See the Chapter 7 section entitled *RECORD KEEPING RULE* for an expanded discussion regarding workfiles.

- **Estimate an item's replacement cost**, or
- **Calculate the present worth** of income-producing property.[35]

More specifically, value is an opinion of worth that could be based on:[36]

- How much comparable items have sold for in the past or on current asking prices for comparable items (determined by means of the sales comparison approach to value), or
- The cost to construct or purchase a new suitable replacement item minus any applicable depreciation (determined by means of the cost approach to value), or
- A calculation of the present worth of income expected to be generated by a property that is classified as income-generating, i.e., calculate the property's "earning power" (determined by means of the income approach to value).

Appraiser Task #1: Develop Opinions of Value

If asked to **value** a non-income producing property (and almost all personal property being appraised is, indeed, non-income producing), the appraiser normally bases his or her value conclusion on market data, i.e., what similar items have sold for in the past or (if no comparable properties are found) on current asking prices. This is known as the **sales comparison approach** to value and is similar to the way many real property appraisers value homes. *"For how much did the home down the street sell?"* a homeowner planning on selling may ask a real property appraiser. Knowing what comparable homes sold for in the past and/or the asking prices for comparable homes currently being offered for sale, the appraiser can develop a good idea of the market value for the subject home.

There are several types of value including actual cash value, market value, fair market value, and many others including fair value (for business assets and liabilities) all having their own, unique definitions. **Value** must be a proven (verifiable) figure. This means that value must be based on data and not on mere subjective speculation. For instance, **fair market value** is a figure used by the IRS for determining the worth of items for tax purposes such as taxes to be levied on a decedent's estate or for supporting an income tax deduction for a taxpayer's noncash charitable contribution. As you can imagine, **fair market value** must be based on solid evidence for support. Typically, this is done by documenting what similar items have sold for in the recent past.

An option to basing value on what similar items have sold for in the past would be to base an opinion of value on the depreciated cost to make or purchase a brand-new, similar item. This is known as the **cost approach** to value. For modern items capable of being made new, making use of the cost approach may be a viable option; however, for vintage clocks this is not an option as one cannot "make" antiquity. For vintage clocks, the appraiser must use the sales comparison approach to the exclusion of the cost approach.

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[35] The three primary tasks of the appraiser involve the three approaches to value. See the Chapter 3 sections entitled *Sales Comparison Approach to Value*, *Cost Approach to Value* and *Income Approach to Value* for an in-depth discussion of the three approaches to value.

[36] See the Chapter 3 section entitled *Tying it Together* for a related table illustrating these three tasks in the context of the primary types of value and their related approaches to value.

Appraiser Task #2: Estimate Replacement Costs

Replacement **cost** forms the basis for developing an opinion of replacement **value**. Replacement cost is an opinion of the amount of money estimated to be needed in order to acquire (through purchase or construction) a comparable item. Replacement cost could be based on such market data as manufacturing costs, consummated sales prices, or current asking prices within the most relevant market.

Replacement cost is a way to establish an item's **replacement value**. Replacement value may be required by a client desiring to obtain insurance coverage, or by a client who has had an item stolen or destroyed beyond repair and is now seeking indemnification from his or her insurance company.

When estimating replacement cost, the appraiser typically does **not** make use of the price for which items have sold for **in the past**. Instead, the appraiser gathers market data by searching the most appropriate marketplace for a comparable item that is **currently** being offered for sale. The asking price for a suitable replacement property, then, would represent the cost which would probably be incurred by the client should he or she be required to replace the item in the future.

What if the item in question is a custom-fabricated entertainment center for which no similar items can be found that are currently for sale? In order to estimate replacement cost for the client to obtain insurance coverage, the appraiser should contact the original cabinet shop to obtain an estimate of the cost to build another. Such estimates should include any applicable additional charges such as for delivery.

What happens if the subject property is that antique clock mentioned earlier—an item which cannot be readily located for purchase at retail within a reasonable amount of time? In such a scenario, the appraiser would instead have to make use of past sales of comparable clocks to estimate the most probable replacement cost of the subject clock. In such a case, this use of the sales comparison approach, while not perfect, would yield the best indicator available of anticipated replacement cost and, thus, replacement value.

Appraiser Task #3: Calculate Present Worth of Income-Producing Property

When a property generates income for its owner, the present worth of that anticipated income helps to identify and substantiate the market value of the property. To value income-producing properties, the appraiser makes use of the income approach to value.

Antiques and collectibles and other forms of personal property typically found in households are not investment property (they are marketable non-investment property), so the income approach to value would not apply to appraisals done on household contents and personal effects. However, the market value of an artwork which is being duplicated in order to generate income is an example of an income-producing property for which the determination of market value would employ the income approach.

The use of the income approach, however, is particularly common for commercial and/or rental real property, and for corporate inventory and other business interests which are expected to generate income for the owner. The income approach, therefore, is most often made use of by real property appraisers, business valuators and accountants. It is seldom used by the personal

property appraiser who is most often involved with appraising property that is not expected to generate income.

Valuation Service

USPAP defines *Valuation Service* as:



VALUATION SERVICE: a service pertaining to an aspect of property value, regardless of the type of service and whether it is performed by appraisers or by others.

Valuation services is an all-encompassing term pertaining to any service that pertains to any aspect of property value and being performed by any individual regardless of whether or not that individual is an appraiser. As such, valuation services include not only bona fide appraisals prepared by bona fide appraisers, but it also includes value-related services such as those provided by estate liquidators who price objects for sale, or by auctioneers who provide a sales price estimate to the seller, or by a shop owner who sets a sales price for consigned goods, or by a jewelry store or pawn shop owner who offers $X to purchase an item being offered to him by a seller. All of these services are considered to be **valuation** services.

When one who **presents him- or herself** as an appraiser provides the valuation service of **appraising** or **appraisal review** while **under assignment** to a **client**, then he or she is obligated to comply with the requirements of USPAP. In addition, such valuation services when performed by an appraiser are referred to as **appraisal practice** which is discussed below.

How about the non-appraiser such as the dealer, jewelry store owner, auctioneer or pawn shop owner? Well, they are not “appraisers”; and in as much as they do not represent themselves as appraisers, are not trained as appraisers and are not expected by the public to perform as appraisers, these “non-appraisers” technically are not required to adhere to the requirements of USPAP when performing valuation services.

Appraisal Practice

Appraisal practice differs from valuation service. While valuation services can be performed by appraiser and non-appraiser alike, **appraisal practice** includes only services offered by individuals **holding themselves out to be appraisers**, which individuals are expected by the public to be non-advocates, impartial, unbiased and who recognize their appraiser-client relationship and its associated responsibilities.

Only appraisers can engage in **appraisal practice**. While non-appraisers such as auctioneers and estate liquidators can offer valuation services which relate to value, they are not holding themselves out to the public as unbiased and impartial appraisers; therefore, non-appraisers cannot perform appraisal practice. **Only appraisers are capable of performing appraisal practice**.

USPAP defines *Appraisal Practice* as:

> *APPRAISAL PRACTICE: valuation services performed by an individual acting as an appraiser, including but not limited to appraisal or appraisal review.*

> *Comment: Appraisal practice is provided only by appraisers, while valuation services are provided by a variety of professionals and others. The terms appraisal and appraisal review are intentionally generic and are not mutually exclusive. For example, an opinion of value may be required as part of an appraisal review assignment.*[37]

As noted above, appraisal practice is not limited to appraisals and appraisal reviews. Also included within appraisal practice are value-related services such as writing appraisal courses, teaching appraisal classes, collecting, researching and analyzing comparable sales data, or analyzing specific elements of value such as provenance, authorship or country of origin. When any of these types of valuation services are performed by an appraiser, there are USPAP obligations that apply.

Competency

While USPAP does not define the term "competency," it does contain a COMPETENCY RULE.

The COMPETENCY RULE states that in all cases, the appraiser must perform competently when completing the assignment. In addition, competency requires the appraiser:

- To have the ability to identify the assignment problem,[38]
- To have the knowledge and experience to complete the assignment competently,
- To have the knowledge of and be compliant with laws or regulations that apply to the appraiser or to the assignment.

In addition to the above, the Comment section to the COMPETENCY RULE notes that competency also applies to such factors as an appraiser's familiarity with:

- The type of property being appraised,
- A particular marketplace (such as familiarity with the wholesale market if that is the market being researched),
- Market activity in the relevant geographic area (which might be different from that in your locale), and
- A particular intended use (such as being familiar with IRS regulations if doing an appraisal for the intended use of noncash charitable contribution of a valuable work of art)

In addition, the COMPETENCY RULE states that if (prior to agreeing to perform an assignment or while performing the assignment) the appraiser determines that he or she is not competent,

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[37] Note that the use of other nomenclature for an appraisal or appraisal review assignment (e.g., analysis, counseling, evaluation, estimate, study, submission, or valuation) does not exempt an appraiser from adherence to the *Uniform Standards of Professional Appraisal Practice*.

[38] See the Chapter 7 section entitled *The Appraisal Process and USPAP* for a discussion of problem identification.

certain steps must be taken in order to complete the assignment competently, and those steps must be disclosed in the appraisal report.

The appraiser can remediate a lack of competency by additional personal study, or by association with another appraiser who is reasonably believed to have the necessary knowledge or experience, or by retaining the services of others who possess the required knowledge or experience. Generalist personal property appraisers commonly associate with other appraisers or with subject-matter experts in order to assist in any number of ways including to properly identify the subject property, to conduct market research, to develop an opinion of value, etc.

The COMPETENCY RULE also requires that the appraiser not accept the assignment (or requires the withdrawal from an assignment if the assignment has already been accepted) if a deficiency in competency is recognized and if competency cannot be acquired prior to completion of the assignment.

Note that it is only after identifying the appraisal problem and determining the scope of work required to develop credible assignment results that an appraiser will be in a position to determine whether or not he or she is capable of completing the assignment competently. **In other words, the appraiser should not even accept the assignment without first "identifying the assignment problem" and "determining the scope of work."**

If the appraiser deems that he or she is not sufficiently competent, the COMPETENCY RULE dictates steps the appraiser must take.

Note that USPAP does not require that the report contain a statement attesting to the appraiser's competency. It is only when an appraiser accepts an assignment while having a **lack** of knowledge or experience (or discovers same during the course of an assignment) that the COMPETENCY RULE requires the appraiser to disclose the deficiency in the report as well as the steps that were taken in order to complete the assignment competently. (2020-2021 USPAP FAQ #114)[39]

Online Appraisals

An online appraisal is an electronically-transmitted personal property appraisal done via the Internet in which value conclusions are based on non-verifiable, client-provided information such as photographs and written descriptions. The use of online appraisals is appropriate for appraisal assignments in which the use of photographs has traditionally been considered a typical appraisal practice such as in the case of theft or property loss by fire or flood. Issues relating to the applicability of online appraisals, their development and preparation, and the online reporting of the appraisal conclusions are similar to those issues that have been traditionally applied to pre-Internet appraisals done without the benefit of personal inspection.[40]

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[39] See the Chapter 7 section entitled *COMPETENCY RULE* for a more detailed discussion.

[40] See the Chapter 3 section entitled *Inspection vs. Non-Inspection* and the two Chapter 5 sections entitled *Online Appraisals and Using Photographs to Appraise When a Hands-On Inspection is Not Possible* for related discussions.

Personal Property

USPAP defines *Personal Property* as:



PERSONAL PROPERTY: Any tangible or intangible article that is subject to ownership and not classified as real property, including identifiable tangible objects that are considered by the general public as being "personal," such as furnishings, artwork, antiques, gems and jewelry, collectibles, machinery and equipment; and intangible property that is created and stored electronically such as plans for installation art, choreography, emails, or designs for digital tokens.

Intangible "Articles"



Note that because of the changes in the world of art and archival collections, effective with the 2020-2021 edition of USPAP, the above definition of *Personal Property* has been modified to now include a new term—"**intangible articles**."[41] Examples of intangible articles would include library or museum digital archives of music, writings, art or images that were created in digital form and may never have existed as tangible objects. (See 2020-2021 USPAP FAQ #230) In the trade, such articles are referred to as being "born digital."

Personal property appraisers provide appraisal practice services to value **personal property** as opposed to real property or business property. There are two categories of personal property: that belonging to **individuals** and that belonging to **businesses**. Personal property can be considered to be any and all **tangible** property that is not classified as real property. By the way, what is the difference between real **estate** and real **property**?

USPAP defines *Real Estate* and *Real Property* as:



REAL ESTATE: an identified parcel or tract of land, including improvements, if any.

REAL PROPERTY: the interests, benefits, and rights inherent in the ownership of real estate.

Note that "real property" involves the bundle of rights pertaining to and inherent in the ownership of real property, while "real estate" is defined as physical land and any improvements attached to the land either by nature (e.g., woodlands, crops, minerals, water) or by people (e.g., a house, silo or factory). **Real estate** agents assist clients buy and sell "real estate." **Real property** appraisers develop opinions of value of "real property."

Personal Property or Real Property?

At times, though, it becomes difficult to tell if an item of property is personal or real property such as might be the case with storage racks, chandeliers, telephone systems, and plant machinery.

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[41] See the following section entitled *Intangible Property (Intangible Assets)* for an expanded discussion regarding the differences between intangible "articles" and intangible "assets."

A key characteristic of personal property is the ability to move it without damage either to itself or to the real estate to which it is attached. An item ceases being personal property and becomes part of the real estate only if it is affixed in such a way that it loses its original physical character and cannot practically be restored to its original condition. Such an item is referred to as a **fixture**.

A fixture, then, is an item that was once personal property but becomes part of the real estate after installation/attachment. When a hot water heater is delivered to a construction site and is awaiting installation it is considered personal property. But once installed, it becomes a fixture and is considered part of the real estate. Other examples include light fixtures, a dishwasher, or a gas furnace.

For appraisal purposes, in deciding whether or not personal property has become a fixture, there are generally the following three tests:

- That the item is attached to the real property
- The intent of the parties
- Tradition and the type of property involved

A builder removes a new ceiling fan from its box, installs it on the ceiling, and sells it along with the house. This item has satisfied all three tests for becoming a fixture. But what about curtains and other window treatments? In many cases, a purchaser of a home has been disappointed to find out the curtains he or she assumed would convey with the house have been removed once the premises become vacated. The purchase contract should specify the intent of the buyer and seller, i.e., what they are considering as a fixture (not to be removed) or personal property (expected to be removed). Although furniture is generally considered as personal property, motels, restaurants and hotels are traditionally sold with room furnishings included. In this instance, furniture is considered a fixture and, therefore, conveys as part of the real estate. Similarly, in some parts of the country, homes are traditionally sold with major appliances such as the clothes washer and dryer left installed. They too, then, are considered fixtures and to be part of the real estate. When confronted with uncertainties as to the treatment of property, the appraiser should address the problem, consult the client, and come to an agreement as to how to treat the property.

Personal property can be an undivided unit unto itself such as a 2-carat diamond, or personal property can be made up of component parts each of which could be the subject of a **fractional** appraisal. An example of the latter would be a pearl necklace made up of many individual pearls. In both examples, the component parts of the property (diamond, mounting, individual pearls) have their own distinct values as do the whole properties themselves (i.e., the ring and the necklace).

Intangible Property (Intangible Assets)

Intangible property is any **non-physical** asset. USPAP defines *Intangible Property (Intangible Assets)* as:

> *INTANGIBLE PROPERTY (INTANGIBLE ASSETS): nonphysical assets, including but not limited to franchises, trademarks, patents, copyrights, goodwill, equities, securities, and contracts as distinguished from physical assets such as facilities and equipment.*

The appraisal of intangible property is typically the purview of the business valuator and not the personal property appraiser; therefore, the appraisal of intangible property will not be covered in this book.



Note that there is a difference between intangible "assets" and the intangible "articles" mentioned earlier. The term “intangible assets” refers to such traditional intangible business assets as franchises, trademarks, patents, copyright, goodwill, equities, securities and contracts. The term “intangible articles” refers to intangible personal property such as music, writings, art or images created in digital form and which might have never existed as tangible objects. Appraising intangible “articles” requires compliance with STANDARDS 7 *Personal Property Appraisal, Development* and 8 *Personal Property Appraisal, Reporting*. Appraising intangible “assets” requires compliance with STANDARDS 9 *Business Appraisal, Development* and 10 *Business Appraisal, Reporting*.

Appreciable vs. Depreciable Personal Property

Appreciable personal property is property which normally increases in value over time. Examples include items once owned by famous personages or connected with certain historical events as well as most antiques, collectibles, fine art, etc. While on occasion some appreciable property might go down in value, the trend is normally upwards.

Depreciable personal property is property that decreases in value over time. Examples typically include everyday clothing, household furniture, kitchen appliances, etc.

A primary distinction between the two types of property is that while depreciable property **can be suitably replaced with a brand-new property** (such as a two-year old sofa), because of its antiquity, collectability, provenance, etc., appreciable property cannot.

In the insurance industry, for depreciable types of property depreciation tables are used to calculate Actual Cash Value as a means of determining a fair settlement in some loss cases. (Actual Cash Value is calculated by subtracting an amount for depreciation from the current cost to replace the item with a brand-new item.)

Note, though, that for **appreciable** property depreciation formulas **cannot** be applied.[42] Original Tiffany lamps are considered appreciable property (historically each year they have typically increased in value). Should such a Tiffany lamp be destroyed in a house fire, hopefully the owner had an agreed value policy (not an ACV policy) to ensure that he or she is compensated based on what it would cost to buy another **original** Tiffany lamp and not on what the depreciated value would be based on the lamp being 100 years old (in which case the owner would get nearly nothing!)

On the other hand, the value of new lamps for the purpose of settling an insurance claim (e.g., for an actual cash value policy) can be calculated based on age-life formulas because new lamps are

[42] Depreciation applies to an antique only in terms of its condition—the nearer to “original condition” the higher its market value.

depreciable property which have a defined life expectancy and they do, indeed, go down in value over time.[43]

It is often argued that **all** personal property can be divided into one of these two categories—appreciable personal property or depreciable personal property. The distinction is an important one, especially when addressing issues of:

- **Actual cash value**. As mentioned, determining actual cash value by calculating replacement cost (new) less depreciation is an inappropriate technique to use for property which does not depreciate such as an antique clock, but which, instead, appreciates in value over time.

- **Loss-of-value**. While an item of appreciable property might suffer substantial loss-of-value if damaged and subsequently repaired, an item of depreciable property typically would not suffer loss-of-value if professionally repaired.

  Do not confuse the term "loss-of-value" as is being used here to refer to fair market value that has been lost due to casualty or transit-related damage with "depreciation" (a.k.a. a detractor of value) which causes property to lose value due to normal physical deterioration as well as to all forms of obsolescence.[44]

- **Methods of acquiring a replacement property**. An item of depreciable property can often be replaced with a brand-new, suitable replacement by means of purchase or the construction of a suitable new replacement property. An example would be the purchase of a new replacement sofa or the purchase of a new custom-made entertainment center.

  On the other hand, an item of appreciable property can normally be replaced only by the purchase of a suitable **comparable** replacement property (i.e., one of having similar relevant characteristics such as age, authorship, provenance, etc. as the subject property) and not by purchasing or constructing a brand-new replacement. An example would be an antique French armoire.

- **Approach to value**. The choice of approach to value may be affected by whether the item is appreciable or depreciable. The former may require the use of the sales comparison approach, while the latter may allow for the use of the cost approach (if, that is, constructing or purchasing a new suitable replacement is an acceptable option).

There will be more on these issues later, but for now, keep in mind that some items of personal property appreciate in value while some depreciate. A primary differentiator between the two classes of property is that depreciable property (such as a refrigerator or lawnmower) **can** be suitably replaced with a brand-new property should the need arise. On the other hand, because of its unique relevant characteristics such as age or provenance, appreciable property (such as an oak icebox or a 18th century Chippendale chair) **cannot** be suitably replaced with a brand-new item—they can only be replaced with comparable properties having similar relevant characteristics.

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[43] See the Chapter 2 section entitled *Actual Cash Value (ACV)* for a further discussion of calculating actual cash value.

[44] See the Chapter 5 section entitled *Depreciation: Detractors of Value* and the Chapter 2 section entitled *Loss-of-Value* for related discussions.

As an appraiser, you will need to know which property is considered appreciable and which is considered depreciable. Note, too, that some property types may be considered as depreciable one year, and appreciable the next (and vice versa) as collectors' whims change. Examples include Beanie Babies and Cabbage Patch dolls.

Comparable Properties

A **comparable** property is a property of the same type as the subject property and that has characteristics which are identical or sufficiently similar to the property in question as to allow comparison for valuation purposes. The characteristics fall into two categories: 1) quality characteristics, and 2) characteristics relevant to value and marketability (i.e., "relevant characteristics"), both physical as well as economic. A comparable property would also be one which would be capable of replacing the function of the subject property, i.e., having the same utility to the owner.[45]

When making use of the sales comparison approach (which is one of the three approaches to value), the appraiser seeks past sales or current asking prices of **comparable** properties on which to base and justify an opinion of value of the **subject** property. If using past sales, note that the sales must have occurred prior to the effective date of the appraisal and that they should have occurred as close to the effective date as possible. There is no requirement for the comparable sales to have occurred within the same year as the effective date of the appraisal.

Value of property is directly proportional to the presence (or absence) of desirable relevant characteristics. The appraiser takes differences in relevant characteristics between the comparable property and the subject property into consideration. To establish the value of the subject property, the value of the comparable property is increased or decreased to reflect the differences (if any) in relevant characteristics between it and the subject property.[46]

As an example, assume the subject property is a highly-carved oak dining table from the early 20th century for which a value needs to be developed. The appraiser locates a recent sale of a similar table of the same period, but the comparable table he finds is not as highly-carved as the subject property. The comparable table's sales price realized should, therefore, be increased accordingly to better represent the value of the subject property which has higher quality carving than does the comparable.

Note that a recent sale of the subject property itself can be used as a comparable sale when using the sales comparison approach to value the subject property. Not only could the past sale of the subject property be used as its own comparable sale, but USPAP's Standards Rule 7-5(b) **requires** the analysis of all prior sales of the subject property that have occurred within a *"reasonable and applicable"* time period (as determined by the appraiser).[47]

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[45] See the Chapter 5 section entitled *Value Creators and Relevant Characteristics* for a discussion of physical and economic attributes having a material effect on value.
[46] See the Chapter 6 section entitled *Principle of Contribution.*
[47] See USPAP AO-1 entitled *Sales History* for a discussion regarding the need for analyzing agreements of sale, options, listings and certain past sales of the subject property.

When to Include Comparable Market Data in the Appraisal Report

New appraisers often wonder when it is necessary to include in the appraisal report the actual comparable market data on which their opinions are based. Should I include comparable market data for a used lawn mower? flat screen TV? used clothing and everyday dishes and glassware? only for valuable items? only for certain intended uses?

Certain intended uses of appraisal reports mandate the inclusion of comparable market data within the report itself. For instance, for appraisals intended to support a taxpayer's noncash charitable contribution deduction in excess of $5,000, the IRS requires that the qualified appraisal include, among other things, the specific basis for the appraiser's valuation including his or her reasoning as well as any specific comparable sales transactions.[48]

Other intended uses for which the appraiser would be wise to include within the report actual comparable market data used as a basis for his or her opinions would include:

- Litigation. In order for the appraiser to be a credible witness in court or at deposition, it is of critical importance that the appraiser support the report's opinions with actual comparable market data.

- Any intended use (such as equitable distribution, divorce, collateral, sales advisory, damage or loss claims, etc.) in which the appraiser's research reveals that value is greater than the average person might otherwise expect.

- Any assignment in which the client or other identified intended users request that supporting comparable market data be included within the report in order to demonstrate the basis on which the appraiser formed his or her opinions of value.

As far as nominally-valued items are concerned, appraisers seldom if ever include comparable market data within the report itself. Indeed, for such property types appraisers will often forego doing any research at all—much less compile comparable market data![49]

So, how is comparable market data actually added to a report? Check out the IRS tax-related guidance in Appendix BB *Guidance for Donation Appraisals of Art Valued Over $50,000—Object Identification* of this book for an example of how to describe property including how to include comparable market data which the guidance refers to as "Appraised Value Support." While it is specifically for items valued in excess of $50,000, the guidance can be applied to any report in which you include comparable market data.

Bundle of Rights/Ownership Rights

The value of property reflects its level of desirability to the owner (or would-be owner). In other words, value is a measure of future anticipated benefits associated with the rights that accompany ownership such as the right to consume, modify, display, donate, or even discard.

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[48] For a related discussion see the Chapter 4 section *entitled Required Information to be Included in a Qualified Appraisal for Noncash Charitable Contribution.*

[49] For a related discussion see the Chapter 9 section entitled *Research: Always Required?*

Thus, the value of a motorcycle which was customized to John's specifications may be worth $7,500 **to John**. But to Bob (who prefers different options or maybe even a different brand), its value may be only $4,000. John's anticipated future benefits as the owner of the item (e.g., pleasure of ownership, riding, displaying the motorcycle at events) are significantly greater than the future benefits that Bob would anticipate to accrue from owning the same motorcycle. Therefore, one would expect that the value of the motorcycle to John would be greater than its value would be to Bob.

The totality of the rights of ownership that are associated with a property is represented in "title" to the property which is a legal term for the property's **bundle of rights—**all of the enjoyment, privileges, rights and responsibilities that can be associated with owning a property.

So, value is not based on the object itself, but rather on the **rights of ownership** that are anticipated to accrue in the future by virtue of ownership. All personal property, whether appreciable or depreciable, has associated with it certain rights of ownership. Examples include the right:

- To make daily use of the property such as a dining room table
- To consume the property such as a box of cereal or a set of car tires
- To display an item such as a painting or sculpture
- To donate the property such as a Tiffany lamp to a museum
- To lease the item such as does an equipment or movie-prop rental company
- To lend the property such as an important document for an exhibition at a local historical society
- To reproduce an item such as making prints of an original painting (assuming one has the rights to do so)
- To sell the property such as an older sofa that has been replaced with a new sofa
- To recycle a property such as an older computer that has been replaced by a newer one
- To discard the property such as an unwanted mattress

Normally, all these rights (collectively known as a **bundle of rights**) belong to one owner; however, on occasion these rights are shared among more than one person. For instance, two sisters might have shared ownership of a painting inherited from their father. Another example of shared rights is rental property. The rental company retains the ownership of the property, but the customer has the right to use the property for the duration of the rental agreement. When valuing property, the appraiser is, in effect, **valuing the rights of ownership** of that percentage of the rights that belong to the client (which is typically 100%).

Scope of Work

USPAP defines *Scope of Work* as:

> *SCOPE OF WORK: the type and extent of research and analyses in an appraisal or appraisal review assignment.*

Scope of work is the degree or amount of work an appraiser actually performs to arrive at credible opinions or conclusions. USPAP contains a SCOPE OF WORK RULE which applies only to appraisals and appraisal reviews, but not to other forms of appraisal practice that appraisers might also undertake such as writing and teaching appraisal courses or collecting comparable market data.

In brief, the scope of work RULE first requires that the appraiser identify the appraisal problem(s) that must be solved. In addition (and in the context of the intended use of the report as well as the needs of the client and other intended users), the appraiser must be able to demonstrate that the scope of work to be performed will be sufficient to produce credible (i.e., believable) assignment results. And finally, scope or work RULE requires the appraiser to identify (and then perform) the type and extent of data that needs to be researched and the type and extent of analysis that needs to be applied in order to arrive at his or her opinions or conclusions.

The scope of work will affect the type, amount and detail of information required to be in the appraisal report. Note that scope of work deals exclusively with the **development** phase of an appraisal or appraisal review assignment, but it **does** not include the work done in the **reporting** of the assignment results.

The appraiser is required to disclose the extent of the assignment's scope of work within the appraisal (or appraisal review) report.[50]

Client

USPAP defines *Client* as:



> *CLIENT: the party or parties (i.e., individual, group, or entity) who engage an appraiser by employment or contract in a specific assignment, whether directly or through an agent.*

Note that the appraiser's **client** is the entity that **engages** the services of the appraiser. One party might engage the services of the appraiser (and therefore be established as the appraiser's "client") while another party might be the owner of the property being appraised and the one responsible for paying the appraiser's fee.[51] Often, these two parties are one and the same. Regardless, it is the party who engages the appraiser for the assignment (not necessarily the one

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[50] See the Chapter 3 section entitled *Scope of Work* for an extensive discussion of Scope of Work. Also see the Chapter 7 section entitled *SCOPE OF WORK RULE.*

[51] An example might be an attorney who engages the services of an appraiser (on behalf of **his** client) as an expert witness. By engaging the appraiser, the attorney becomes the appraiser's client. Services are billed by the appraiser to the attorney who turns around and sends the invoice to **his** client, who then pays the appraiser directly. (2020-2021 USPAP FAQ #130)

paying for that assignment or owning the property) with whom the appraiser establishes the important appraiser-client relationship.[52]

Connected to each assignment is the appraiser-client relationship.[53] Such a relationship carries with it significant ramifications regarding trust, confidentiality, disclosure and liability. The appraiser has that relationship **only** with the identified client and with no other intended user, individual or party.[54] At times, there might be confusion as to the identity of the client. Who is engaging the appraiser? Who owns the property? Who is paying the appraiser? Who is acting as agent? Here are some examples:

- For an appraisal being done to acquire insurance coverage for high-value personal property, the appraiser's client, the property owner and the party paying the appraiser are usually one and the same. No confusion here.

- For a divorce appraisal, however, the property owner and the person paying the appraiser is a spouse, but the party engaging the appraiser might be the spouse's attorney acting on behalf of the spouse. In such a case, the spouse is the property owner and is paying the appraiser, but the attorney is the appraiser's client since it was the attorney who engaged the appraiser.

- In the case of an appraisal of a decedent's estate, the property owner and the entity responsible for paying the appraiser is "the estate of John Doe, Sr., deceased." But it is the decedent's son and executor, Mr. John Doe, Jr., who engaged the appraiser; therefore, the appraiser's client is Mr. John Doe, Jr.

- Questions regarding who is an appraiser's client frequently relate to assignments in which an appraiser is contacted and hired through an appraisal management company (AMC). As an intermediary between the interested parties (e.g., a property owner seeking an appraisal and the online appraiser), AMCs facilitate (often via an online appraisal service for personal property appraisals) engaging the appropriate appraiser and coordinating the appraisal assignment from start to finish.[55] The AMC serves as the agent for the party seeking the appraisal. Since, in this capacity, the AMC engages the appraiser, the AMC (and not the property owner) is the appraiser's client and can be identified as such in the appraisal report.[56]

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[52] A party does not automatically become the appraiser's client merely by the act of paying the appraiser for services rendered. The client is the party who **engages** the services of the appraiser. (2020-2021 USPAP FAQ #127)

[53] There are no provisions in USPAP for terminating the appraiser-client relationship; accordingly, associated obligations such as workfile and confidentiality requirements apply regardless of the status of the client—even if the client is deceased or has gone out of business. (2020-2021 USPAP FAQ #70)

[54] If more than one party engages the appraiser, all such parties are considered to be co-clients. See the Chapter 8 section entitled *Ethical Obligations to Clients* for more regarding co-clients.

[55] Personal property AMCs receive payment for appraisal services directly from the party requesting the appraisal. This is usually the property owner. The AMC, in turn, then pays the appraiser for appraisal services rendered.

[56] Despite the AMC being the party engaging the appraiser, there is nothing in USPAP that would preclude either the AMC or the AMC's client from being identified as the appraiser's client. (2020-2021 USPAP FAQs #129 and #130)

The appraiser must identify the client for every assignment and disclose the identity of the client in the report. For an assignment in which a client wishes to remain anonymous and does not want to be identified in the appraisal report, the appraiser may omit the client name from the report and, instead, document the client's identity in the workfile. In such cases, the client is identified in the appraisal report by "type" (e.g., "owner") instead of by name. In addition, the report must provide a notice that the identity of the client has been omitted in accordance with the client's request.

Intended Use

The intended use of an assignment report is the way in which the client and other intended users will make use of the appraiser's reported opinions or conclusions. **Identifying the intended use(s)** of the assignment is one of the first and most important steps in the appraisal process.[57] USPAP requires that the appraiser identify the intended use of the assignment within the assignment report.

USPAP defines *Intended Use* as:

> *INTENDED USE: the use(s) of an appraiser's reported appraisal or appraisal review assignment results, as identified by the appraiser based on communication with the client at the time of the assignment.*[58]

The appraiser identifies the assignment's intended use through communication with the client prior to accepting the assignment. Examples of intended uses for an appraisal assignment include for selling the subject property, divorce, acquiring insurance coverage, equitable distribution, filing an insurance claim, making a noncash charitable contribution, bankruptcy, estate tax, etc.

The intended use may also encompass requirements of intended users other than the client, if there are any. Intended users other than the client might impose additional developing and reporting requirements on the appraiser. Should intended users other than the client be identified by the appraiser, care must be taken to ensure that their needs are incorporated into the report just as are the needs of the client.

Knowing intended use is crucial to all the steps that follow in the appraisal process. Specifically, only after the client's intended use has been identified will the appraiser will be in a position to identify:

- The type and definition of value to use (e.g., replacement value, fair market value, etc.), and
- The appropriate market to explore in order to locate data on which to base an opinion of value.

Identification of the intended use also helps the appraiser to make two additional important decisions about the assignment:

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[57] See Chapter 4 Appraisal Principles Part III (Intended Uses) for a detailed discussion of intended uses.
[58] According the ASB's Q&A of June 27, 2018, "at the time of the assignment" refers to the time period commencing with the appraiser's agreement to perform a valuation service and ending with the completion of the assignment.

- The scope of work that will be required to develop credible assignment results, and
- The level of detail to provide in the appraisal report

Multiple Intended Uses

An assignment may have multiple intended uses with a single value opinion in the same report as long as all the intended uses employ the same type and definition of value. An example with multiple intended uses with the same type and definition of value could include a fair market value appraisal being prepared for a possible charitable donation and at the same time being prepared for estate tax purposes. In such a scenario, the type of value being developed for both intended uses would be Fair Market Value, and the definition of Fair Market Value for both intended uses would be as defined by the federal government.

When there is more than one intended use, the appraiser must clearly identify each of the uses to limit the possibility of confusion. In addition, the appraiser must realize that the scope of work might need to be expanded to ensure credible results for all the intended uses. (2020-2021 USPAP FAQs #187 and #319)[59]

Multiple Value Opinions

Appraisers can also include multiple value opinions (such as orderly liquidation value and forced liquidation value) within a single report for which there are multiple intended uses (such as for orderly liquidation or for a distress sale). In such a report, each intended use has a different value type and definition, a different scope of work, and, in all likelihood, will have different value conclusions as well. (2020-2021 USPAP FAQ #319)

Supplemental reading:

- USPAP Advisory Opinion 36 *Identification and Disclosure of Client, Intended Use, and Intended Users*

Credibility

Identification of the intended use of the assignment helps the client and appraiser decide on the appropriate scope of work and level of detail to provide in the assignment report in order to ensure that the report is **credible** in the context of the intended use of the assignment results.

USPAP defines *Credible* as:

> *CREDIBLE: Worthy of belief.*
>
> *Comment: Credible assignment results require support, by relevant evidence and logic, to the degree necessary for the intended use.*

Whether or not assignment results are **credible** is measured in the context of the intended use of the report. For example, a scope of work which results in the assignment results being "credible"

[59] See the Chapter 4 section entitles *Multi-Market, Multi-Value Appraisals* for a more detailed discussion.

when the intended use of the report is merely for the personal knowledge of the client will fall far short of being "credible" if, instead, the intended use of the report is for IRS tax purposes. For the latter intended use, a much more complex scope of work and a greater level of report content and detail would be required in order for the assignment results to be considered as "worthy of belief."

Intended Users

The term *Intended User* has a specific meaning in USPAP which defines the term as:

> *INTENDED USER: the client and any other party as identified, by name or type, as users of the appraisal or appraisal review report by the appraiser, based on communication with the client at the time of the assignment.*[60]

Needs of Intended Users

By identifying intended users, the appraiser is acknowledging that he or she is:

- Developing opinions and conclusions for use by the identified intended users,
- Responsible for identifying the needs of the intended users, and
- Responsible for communicating credible assignment results to the identified intended users (as well as to the client) in an understandable, clear, non-misleading and meaningful manner. USPAP defines *Misleading* as:



MISLEADING: Intentionally or unintentionally misrepresenting, misstating, or concealing relevant facts or conclusions.

The appraiser must identify the **intended users** of the report since this information affects the entire appraisal assignment including the **scope of work** as well as the format of the report that is to be prepared (i.e., making use of the Appraisal Report option or the Restricted Appraisal Report option).

Should there be intended users other than the client, the appraiser might also be faced with additional development and reporting requirements necessitated by the needs of those additional intended users and how they are going to make use of the report. Consequently, it is imperative that the appraiser not only identify other intended users but also determine how they are going to make use of the assignment results and, consequently, what additional needs they might have over and above those needs of the client.

As a simple example, a client/seller might identify to the appraiser a third-party who the client states will base a purchasing decision on the appraiser's opinion of an item's fair market value; consequently, as one intent on making use of the appraisal report, that third-party would be deemed to be an "intended user" and his needs would have to be taken into consideration. For

[60] See the Chapter 7 section entitled *Appraisal Report Options* for a discussion regarding how intended users are permitted when using the Restricted Appraisal Report option but only if they are identified by name and not merely by type.

instance, unlike the client/seller, the would-be buyer might wish to closely review the comparable sales on which the client based his or her opinions.

If identified as an intended user by the client, a third-party must also be considered as an intended user by the appraiser and treated as such. Here are other examples of intended users the client might identify to the appraiser as such. Notice how the needs of the intended users can affect the appraiser's scope of work.

- Consider a client and siblings who are heirs to an estate. The siblings are identified as intended users by the client. They will all be making use of the appraisal report to equitably divide certain high-value items of inherited property. For those items, they will require a written appraisal report of fair market value. They will require that the items be described to the degree needed in order to properly identify all the relevant characteristics of the property.

- Consider again the above scenario, but this time let's focus on the remaining items which are household goods of only modest value. The appraiser is told that these remaining items will be sold by the siblings at an upcoming estate sale. For each of the items being sold, the heirs need a range of liquidation values so they can price the items and be prepared to negotiate a sale should they need to offer discounts to entice a sale during the closing hours of the estate sale. But neither client nor heirs want to pay for a written report, nor are they interested in having the appraiser explain his reasoning used to support the appraiser's opinion. Nor do they want the appraiser to do unnecessary value-confirming research. In this assignment, the appraiser might suggest an oral appraisal report with the client and intended users taking their own notes as to the appraiser's verbal opinions of value. Without value-confirming research, such an assignment will involve the use of extraordinary assumptions and will require proper disclosure regarding those extraordinary assumptions being made by the appraiser.

- The client's tax preparer will be using the appraisal report to assist the taxpayer in the preparation of the client's income tax return. The tax preparer will require that for donation appraisals in excess of $5,000 that his client obtain a qualified appraisal from a qualified appraiser as required by Treasury Regulations.

- A moving company claims adjuster will be using the shipper's appraisal report to settle a transit-related damage claim. The adjuster might require that the appraiser provide photographic evidence of claimed damage, an opinion of whether or not claimed damage is transit-related, replacement values and other inspection-related information needed to equitably settle the claim.

- An insurance company underwriter will be using the insured's appraisal report to substantiate the amount of coverage in an agreed-value policy. The intended use will require a high degree of inspection and a thorough analysis and reporting of comparable sales on which the opinion of value was based.

Parties Who Receive Copies of or USE Report Not Necessarily Intended Users

Do not **automatically** consider parties as "intended users" simply because they used a report or received a copy of the report through established processes of disclosure, discovery or

regulation.[61] Parties only become intended users if they are so identified by the client and by the appraiser at the time of engagement. USPAP AO-36 *Identification and Disclosure of Client, Intended Use and Intender Users* states:

> *A party receiving a report copy from the client does not, as a consequence, become a party to the appraiser-client relationship. Parties who receive a copy of an appraisal or appraisal review report as a consequence of disclosure requirements applicable to an appraiser's client do not become intended users of the report unless they were specifically identified by the appraiser at the time of the assignment.*

An example might be in the case of a civil litigation trial. The opposing side might receive a copy of the appraisal during discovery, but they were not identified by the appraiser through communication with the client as being an intended user. As a result, though the opposing side received a copy of the appraisal, the opposing side was not an identified "intended user," so the appraiser was not obligated to take the opposing side's needs into consideration when preparing the report. Another example would be the IRS for donation appraisals. The appraiser learns that the client's intended use is as an indication of the amount to deduct on his or her tax return, but the appraiser is typically unaware of the IRS's intended uses of a report.[62]

Disclosing Identity of Client and other Intended Users in the Report



USPAP requires that for an Appraisal Report, the client and other intended users must be identified by name or type. For a Restricted Appraisal Report, the client must be identified by name or type, but other intended users must be identified by name (and not merely by type.)[63]

The purpose of this requirement is to ensure that the client and other intended users recognize their relationship to the report. In addition, by clearly identifying the client and any other intended users, the appraiser can avoid misleading unintended users of the report including those who might just happen to come into possession of the appraisal report.

Discussing the Report with Intended Users

Note that although intended users other than the client might play an important role regarding report content, they are not entitled to discuss the assignment results or confidential information related to the assignment with the appraiser without the client's authorization. (2020-2021 USPAP FAQ #63)

Supplemental reading:

- USPAP Advisory Opinion 36 *Identification and Disclosure of Client, Intended Use, and Intended Users*

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[61] This is because often the intended use of the report by these other parties is unknown to the appraiser and typically differs from the client's intended use that the appraiser has identified and which forms the basis for the scope of work to be undertaken by the appraiser.
[62] See 2020-2021 USPAP FAQ #135 for additional examples of parties who do not automatically become intended users simply because they received or used the report (e.g., the IRS).
[63] If the client requests to remain anonymous, state that the client's identity has been withheld at the client's request but is retained in the assignment workfile.

Value vs. Cost vs. Price

It is important to understand the differences between the terms **value**, **cost** and **price** as they are associated with the appraisal process. Given the various ways the terms are used outside the field of appraising, often the distinction between them is lost, but the conceptual differences are profound and must be clearly understood by the appraiser.

In brief, **value** is a measure of worth based on the future benefits anticipated to accrue because of ownership of a property. **Price** is the amount of money a seller is asking for a property currently for sale. **Cost** is the amount of money that the buyer actually paid or will have to pay for a property.

Value

Value is a difficult term to define. It, like time and distance, is a general concept that is best understood if we consider ways in which it can be measured such as by relating value to the current asking prices for comparable properties, or to amounts that were actually paid for comparable properties which were sold in the past. As noted in the below USPAP definition of the term, "value" is expressed as an **opinion** and not as **fact**.

USPAP defines *Value* as:



VALUE: the monetary relationship between properties and those who buy, sell, or use those properties, expressed as an opinion of the worth of a property at a given time.[64]

Comment: In appraisal practice, value will always be qualified - for example, market value, liquidation value, or investment value.[65]

Objective vs. Subjective Interpretation

There are two schools of thought regarding measuring value—objective and subjective. Historically, the objective school of thought measured value only by the cost to produce or otherwise acquire the property. Thus, value was based on the item itself without regard to external factors such as need or desirability to own. But the more modern, subjective interpretation of value recognizes the role that external factors have on value—such as future benefits anticipated to accrue as a result of ownership.

As an example, throughout the country a typical household portable generator cost $995 which is the manufacturer's suggested retail price. In the objective school of thought, $995, then, would represent the replacement value of the property. But what if a hurricane passed through an area causing area-wide power outages? Additional generators that are subsequently shipped to the affected area now sell for considerably more. Why? Because of the extreme need of residents to keep their homes powered up and their refrigerators running. The generator is the same whether or not there was a hurricane. But the subjective point of view of value (which, by the way, we

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[64] Value expresses an economic concept. As such, it is never a fact but always an opinion of the worth of a property at a given time in accordance with a specific definition of value.
[65] Note the requirement that "value" always be qualified as to type of value. Always make sure you have a clear understanding of the **type** of value being developed as well as its **definition**.

will be using throughout this book when referring to "value") recognizes that personal property does not have value simply because it exists. It might also have worth because it has value that resides only in the eye of the beholder and, perhaps, to no one else, i.e., value that results from benefits that a particular individual anticipates will accrue due to his or her owning the property.

For our purposes, we will discuss value in terms of it being a monetary measure of its purchasing power—especially as it relates to the amount of money agreed upon by market participants as being equivalent to the usefulness of a property to fulfill a given need. In other words, the value of property reflects its level of desirability (expressed in dollars) to the owner or to a would-be owner. Value is a measure of future anticipated benefits associated with ownership rights such as the right to make use of, consume, modify, display, donate, etc., i.e., its "bundle" of rights.[66]

Practically speaking, though, value is the amount one (depending on his or her needs and wants) should feel justified in paying if buying (or the amount accepted if selling) and is based on what most other prudent and knowledgeable purchasers have or are paying for comparable properties.

Unlike cost and price which are facts, **value is an opinion**, albeit an opinion with a basis in fact, i.e., value **is always justified** since it is determined by reference to factual market data such as past consummated sales or bona fide asking prices for comparable properties.

Perspective

All appraisal values are based either from the **perspective of the market** (i.e., a type of "market value") or from the **perspective of the appraisal user** (buyer, seller, underwriter, adjuster, etc.). In addition, if applicable, mandated value definitions can originate from different sources such as the courts or a regulatory body including the IRS. These two perspectives (along, possibly, with mandated value definitions) impact the appraiser's scope of work decision by defining assignment conditions which will apply to the appraisal. For instance, the following two examples consider both market as well as user perspectives: [67],[68]

- Consider an appraisal for the purpose of the client receiving an income tax deduction for donating a work of art to a museum. Such an appraisal assignment would require the development of an opinion of fair market value as defined by the IRS. As do all other types of market value, fair market value employs the **market perspective**. Developing an opinion of any type of market value from such a perspective necessitates the use of comparable market data from past sales which had occurred under such conditions as:

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[66] We will discuss this "bundle of rights" later in Chapter 3. See also the Chapter 6 section entitled *Principle of Anticipation.*

[67] USPAP AO-22 *Scope of Work in Market Value Appraisal Assignments* states that "The market perspective replaces a user's (e.g., buyer, seller, lender, agent, etc.) perspective that might apply in other appraisals, such as for investment value or insurable value. This market perspective directly affects the scope of work necessary to develop credible opinions and conclusions in market value appraisals. The public's expectation that a market value appraisal reflects only the perspective of the marketplace, and is not affected by such other criteria as an intended user's objectives, is important. Meeting this expectation serves to foster and promote public trust in professional appraisal practice, a fundamental purpose of the *Uniform Standards of Professional Appraisal Practice* and one that applies to all work performed under USPAP."

[68] For additional discussion regarding perspective, see the two Chapter 2 sections entitled *Intended User Perspective and Requirements* and *Market Perspective: Market Participant Expectations.*

  - Sales occur in a competitive and open market where price is not affected by undue stimulus.

  - Both buyer and seller are considered well informed, typically motivated, without duress, and acting prudently and in their own best interests.

  - A reasonable amount of time is allowed for exposure on the open market.

  - Payment is made in terms of cash or in financial arrangements comparable thereto, and there is no creative financing or sales concessions.

  - Title will change hands by a specified date.

- Now consider an appraisal for the purpose of the client acquiring insurance for high value property where the insurance contract defines the amount the insured is to be paid in case of loss as replacement value—a type of value which requires the use of the **user perspective**. When developing an opinion of replacement value for such an assignment, the appraiser would not make use of the market as defined above, but rather from a market in which:

  - The insured could purchase from his or her most relevant market, i.e., the market in which the insured most customarily and conveniently shops, and

  - The insured could make a purchase within a reasonable amount of time

The above examples serve to demonstrate the importance of defining the type of value used and the relevant conditions that apply to the assignment. Doing so will help ensure meaningful appraisal reports. This issue will be addressed in greater detail later in this book, but for now remember the importance of identifying the **type** of value as well as its **definition** for all appraisal assignments.[69]

Cost and Price

Cost and price refer to what a **buyer paid** for an item or what a **seller is asking** for an item, respectively. "What is the price of that item?" "Your price is too high." "What did that cost you?" "I thought it would have cost you more." These common usages of the terms cost and price indicate a **relationship** with value but not necessarily an **equivalency** to value. Be aware, too, that it is not uncommon for the terms cost and price to be considered synonymous and to mean the actual amount of money an item brings when sold. We, however, will, as does USPAP, differentiate between the two and use the following meanings for **cost** and **price**:

- **Cost** is the amount of money required to obtain a replacement property by purchase or by construction (known as **buyer's cost**). Cost may be equal to value from time to time, but cost is not synonymous with value. Unlike value which is an opinion, **cost is a fact**.

  USPAP defines *Cost* as:

[69] In Chapter 2 we discuss **value** in greater detail. Also, see Chapter 5 for a discussion of "value creators" as well as "value detractors," i.e., "depreciation."



COST: the actual or estimated amount of money required to create, reproduce, replace or obtain a property.

Cost is a type of monetary relationship that represents the amount of money that would be required to acquire an identical property or to acquire a comparable or otherwise suitable replacement for a subject property. Cost **is not always justified**, i.e., it may be higher than the item's value on one occasion or lower on another. A buyer may pay too much for a property because of a lack of knowledge or because of an urgency to own. On the other hand, because of a lack of knowledge or urgency to sell on the part of a seller, the buyer's cost may be much less than the property's "value."

In other words, buyer's cost does not necessarily reflect the value of a property. The buyer might have paid too much, or perhaps the buyer got a bargain and paid less that the item was actually worth.

- **Price** is another type of monetary relationship—one that represents **the amount that is being asked** by the seller for goods or services.[70] Unlike value which is an opinion, **price is a fact**. If the asking price is paid, then **price** paid for a property becomes its **cost** to the buyer.

  USPAP defines *Price* as:

  PRICE: *the amount asked, offered, or paid for a property.*

  Comment: Once stated, price *is a fact, whether it is publicly disclosed or retained in private. Because of the financial capabilities, motivations, or special interest of a given buyer or seller, the price paid for a property may or may not have any relation to the* value *that might be ascribed to that property by others.*

  Because of the various motivations of a given seller, the price may or may not have any relationship at all to the **value** which might be assigned to that property by most prudent and knowledgeable market participants. If one is under pressure to sell, the asking price may be reduced well below the property's actual value as recognized by others. On the other hand, given plenty of time and with the hopes of achieving a windfall profit, a seller may ask an artificially high price that, in fact, might far exceed what most others would consider its actual value.

  Like cost, price **is not always justified**, i.e., it may be too high relative to value on one occasion or too low on another.

[70] For appreciable property such as antiques and collectibles, price is often set artificially high by the seller in anticipation of having to negotiate downward to induce a sale.

Assignment Conditions

USPAP defines *Assignment Conditions* as:



ASSIGNMENT CONDITIONS: Assumptions, extraordinary assumptions, hypothetical conditions, laws and regulations, jurisdictional exceptions, and other conditions ***that affect the scope of work****.*[71] [emphasis added]

Assignment conditions describe all those aspects of the assignment which have an impact on the scope of work performed by the appraiser. If changed, assignment conditions might very well alter the appraisal results.

Limiting conditions, extraordinary assumptions, hypothetical conditions and jurisdictional exceptions are specifically-named assignment conditions which are defined and discussed in some detail in USPAP as well as in other parts of this book. But what does the *Assignment Conditions* definition term "…other conditions…" refer to?

During the appraisal problem identification phase of the assignment, the appraiser identifies several elements of information which are themselves assignment conditions or cause assignment conditions to be encountered including:

- Who is the client and who are other intended users; what are their objectives and priorities regarding the assignment?
- How will the client and intended users make use of the assignment results?
- The type and definition of value will establish certain assignment conditions such as market to be researched, exposure time, terms of sale.
- The subject properties and their relevant characteristics including potential value levels will establish property-related assignment conditions, such as whether or not the appraiser is competent, or if assistance from property-type specialists will be needed.

Here is a list of only some of the many possible assignment conditions the appraiser might encounter:

[71] Laws include constitutions, legislative and court-made law, administrative rules, and ordinances. Regulations include rules or orders having legal force issued by an administrative agency.

- Dissention among parties?
- Limitations on what the appraiser is allowed to disclose?
- Limited time on-site time to conduct inspection?
- Limited funding?
- If no inspection, are photos and/or descriptions sufficient?
- Will a preliminary report be required?
- Electricity and heat still on?
- Property still marketable?
- Discovery still open?
- Property types and level of value?
- Appraiser competent? Sufficient knowledge and experience?
- Assistance of others required?
- Parties equally knowledgeable?
- Parties under duress to act?
- Properties have alternative markets?
- If for liquidation, is marketing time reasonable?

Assignment vs. Client-Imposed Conditions



By the way, not all conditions are "assignment" conditions. Some conditions are actually "client-imposed" conditions which **do not** have any impact on scope of work; as a result, they would not be considered as "assignment" conditions. For instance, some clients might require that the assignment be completed by a specific date. This is referred to as an assignment **due date**. Due dates are not assignment conditions since they have no impact on scope of work. Such "turnaround times" are contractual obligations between the appraiser and the client, but they do not fall within the purview of USPAP (2020-2021 USPAP FAQ #225). Other conditions which are considered to be contractual, client-imposed conditions (as opposed to assignment conditions) include payment conditions, duty of performance, termination agreement, liability agreement, indemnification, etc.

Unacceptable Assignment Conditions



Not all appraisal assignments need be accepted by the appraiser. Some assignments might contain unacceptable assignment conditions. USPAP AO-19 *Unacceptable Assignment Conditions in Real Property Appraisal Assignments*[72] states that an assignment condition is unacceptable if it:

- *Precludes an appraiser's impartiality, because such a condition destroys the objectivity and independence required for the development and communication of credible results;*

- *Limits the scope of work to such a degree that the assignment results are not credible, given the intended use of the assignment; or*

- *Limits the content of a report in a way that results in the report being misleading.*

An example of an **unacceptable** assignment condition might be in regards to the nondisclosure of facts. For instance, assume an assignment in which the client is claiming moving damage to an antique table which, while clearly having transit-related damage caused by the carrier, also had

[72] Note that some of USPAP's Advisory Opinion are an important source of guidance to the personal property appraiser despite being titled in such a manner as to imply applicability to an appraisal discipline other than personal property. AO-19 *Unacceptable Assignment Conditions in Real Property Appraisal Assignments* is such an example.

pre-existing damage which would have a depressing effect on the table's pre-move value (and on the client's hoped-for substantial loss-of-value compensation!) In order to achieve the highest value possible, the client asks the appraiser to value the table without mentioning the pre-existing damage at all. Of course, for the appraiser to do so would result in a **misleading** report,[73] and to comply with this assignment condition would be unethical. The Conduct section of the ETHICS RULE states:

> *An appraiser must not use or communicate a report that is known by the appraiser to be misleading or fraudulent.*



Another example of an unacceptable assignment condition would be a charitable donation appraisal client who tells the appraiser that he must value the property being donated for a minimum of $X. According to USPAP's AO-19, an appropriate reply might be:

> *As long as the amount is only to inform me of your objectives or someone else's opinion and is not a condition for your placement of this assignment with me, we can proceed. However, if that amount is a condition of this assignment, accepting the assignment under that condition violates my professional ethics.*

When assignment conditions are unalterably unacceptable to the appraiser regardless of whether they are on professional, ethical or moral grounds, the appraiser should decline the assignment.

Supplemental reading:

- USPAP AO-19 *Unacceptable Assignment Conditions in Real Property Appraisal Assignments* (Despite its title, some sections of AO-19 are applicable as well to personal property appraisal assignments.)

Limiting Conditions

A limiting condition is a type of assignment condition. Limiting conditions are adverse conditions associated with a particular appraisal assignment that could materially affect the appraisal process and, as a consequence, possibly the value conclusion. For example:

- While on site there may be no electrical power for the appraiser to test the working condition of household appliances. The appraiser may, therefore, choose to assume all are working properly because the client told him so.

- There may be no fuel in the gas tank, making it impossible to start a car's engine to see if it works, and, of course, the appraiser is unable to tear down the engine to examine it for wear. As a result, the appraiser must assume that the engine works and that it has incurred only normal wear and tear.

- The client refuses to allow the appraiser to remove a print from its frame for fear of damage being caused to the print, frame or both. As a consequence, the appraiser must

[73] USPAP defines Misleading as: "Intentionally or unintentionally misrepresenting, misstating, or concealing relevant facts or conclusions."

make certain assumptions regarding the print since he or she is unable to inspect it as closely as the appraiser had wished.



Limiting conditions must be clearly and accurately disclosed in the appraisal report. Limiting conditions often cause the appraiser to make what are known as **extraordinary assumptions** as was done in the above examples.[74]

Extraordinary Assumptions

An extraordinary assumption is another type of assignment condition. Extraordinary assumptions are assumptions an appraiser is forced to make during the course of an appraisal in order to complete the appraisal process. If made in error, extraordinary assumptions could cause the appraiser's opinions or conclusions to be affected.

Extraordinary assumptions may apply to the property proper or to marketplace issues relating to the property such as market conditions, fads or trends. Extraordinary assumptions are statements assumed to be true so that a conclusion can be drawn. Without making these extraordinary assumptions, the appraiser would be unable to complete the assignment.

The appraiser's opinions or conclusions are based on information regarding the subject property. Complete knowledge of the property is typically gained by the appraiser making a through personal inspection of the property. Even so, extraordinary assumptions may need to be made (when uncertain conditions exist) in order to proceed with the assignment such as the assumption that the household appliances are in working order despite the inability to test them because of the lack of electrical power; or that the automobile engine performs to expected standards despite the appraiser being unable to start the car because the keys are missing; or that the client has good title to the artwork being appraised; or that the comparable market data provided by an assisting appraiser is valid. If the appraiser is using a sample of the whole on which to base the appraisal, making use of this sampling technique should be noted as it makes necessary the extraordinary assumption that the balance of the whole is similar in condition and quality to the sample that was examined.

Oftentimes, property is no longer available for inspection, such as property that was stolen or perhaps lost in a fire, hurricane or other natural disaster. In such cases, the appraiser must make extraordinary assumptions regarding the property's value characteristics based on client-provided information such as photographs, descriptions, sketches, etc.

USPAP defines an *Extraordinary Assumption* as:

> *EXTRAORDINARY ASSUMPTION: an assignment-specific assumption as of the effective date regarding uncertain information used in an analysis, which, if found to be false, could alter the appraiser's opinions or conclusions.*
>
> *Comment: Uncertain information might include physical, legal, or economic characteristics of the subject property; or conditions external to the property, such as market conditions or trends; or the integrity of data used in an analysis.*

[74] See the Chapter 5 section entitled *Limiting Conditions* for additional information for a related discussion.

Extraordinary assumptions must be clearly, conspicuously and accurately disclosed in the appraisal report, and the report must notify intended users that the extraordinary assumptions might have affected the assignment results.[75], [76], [77]

No Label Required

Though an extraordinary assumption might be employed in an assignment, there is no USPAP requirement that it be labeled as such. USPAP requires that the extraordinary assumption be "clearly and conspicuously" disclosed, and that it be disclosed that the extraordinary assumption "might have affected the assignment results," but there is no requirement that it be labeled "extraordinary assumption" although many appraisers choose to do so. (2020-2021 USPAP FAQ #237)

Hypothetical Condition

A hypothetical condition is yet another type of assignment condition. Hypothetical conditions are conditions that are contrary to what actually existed as of the effective date of the appraisal, but that are **supposed** to exist for the purpose of the appraisal assignment. Hypothetical conditions give rise to what are referred to as hypothetical appraisals.

As an example, to assist in the determination of an equitable settlement in a damage claims appraisal, you may be asked to determine replacement cost for damaged property assuming it was in good condition and not damaged at all. In such a scenario, you assume a hypothetical condition, i.e., that the property is in undamaged condition when, in fact, it was not.

For another common example consider a client who owns a rare and potentially valuable clock that is in poor condition and that the owner is considering having restored. Clock restoration is often expensive, particularly if the mechanism is complex or if restoration of the case is also involved. Before the restoration is undertaken, in order to decide whether the potential value of the clock warrants the expense of restoration, the client asks the appraiser to estimate the clock's value **assuming** that it has been professionally restored. The appraisal is hypothetical because the clock will **not** have been restored as of the effective date of the appraisal. It will be, in fact, in a poor, non-working condition as of the effective date.

USPAP defines a *Hypothetical Condition* as:

> *HYPOTHETICAL CONDITION: a condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results, but is used for the purpose of analysis.*
>
> *Comment: Hypothetical conditions are contrary to known facts about physical, legal, or economic characteristics of the subject property; or about conditions external to the*

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[75] The appraiser need not report on the impact of extraordinary assumptions made—only that they might have affected the assignment results. (2020-2021 USPAP FAQ #236)
[76] See the Chapter 5 section entitled *Extraordinary Assumptions* for additional information.
[77] A related term, "assumption" is another type of assignment condition. As is normally thought, an assumption is that which is "taken to be true." SR 8-1 requires that assumptions be accurately and clearly disclosed in the appraisal report.

property, such as market conditions or trends; or about the integrity of data used in an analysis.



Hypothetical conditions must be clearly, conspicuously and accurately disclosed in the appraisal report, and the report must notify intended users that the hypothetical conditions might have affected the assignment results.[78], [79]

No Label Required

Though a hypothetical condition might be encountered in an assignment, there is no USPAP requirement that it be labeled as such. USPAP requires that the hypothetical condition be "clearly and conspicuously" disclosed and that it be disclosed that the hypothetical condition "might have affected the assignment results," but there is no requirement that it be labeled "hypothetical condition." (2020-2021 USPAP FAQ #237)

Jurisdictional Exception

A jurisdictional exception is a type of assignment condition that prevents the appraiser from fully complying with USPAP.

USPAP defines a *Jurisdictional Exception* as:



JURISDICTIONAL EXCEPTION: an assignment condition established by applicable law or regulation, which precludes an appraiser from complying with a part of USPAP.

If any section of USPAP is contrary to any laws or regulations applicable to a particular appraisal assignment, then the appraiser is excused from complying with that section of USPAP. Jurisdictional exceptions preserve the balance of USPAP if one or more of USPAP's parts is in conflict with local laws or ordinances.

Jurisdictional exceptions primarily affect the real property appraiser and rarely impact the personal property appraiser. Should they apply, however, jurisdictional exceptions must be disclosed in the assignment report.

An example might be an appraisal done for the probate court in a state which has a statute stipulating that appraisal fees for these types of assignments shall be based on the appraised value of the property—an obvious violation of USPAP which prohibits such a contingency fee. This is an example where the JURISDICTIONAL EXCEPTION RULE applies. In order to comply with the requirements of the JURISDICTIONAL EXCEPTION RULE, the appraiser must disclose in the appraisal report the reason(s) that prohibit compliance with the USPAP prohibition against contingency fees, and cite the basis for the jurisdictional exception.[80]

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[78] The appraiser need not report on the impact of a hypothetical condition encountered—only that it might have affected the assignment results. (2020-2021 USPAP FAQ #236)
[79] See the Chapter 5 section entitled *Hypothetical Condition* for additional information.
[80] See the section entitled *JURISDICTIONAL EXCEPTION RULE* in Chapter 7 for a related discussion.

Purpose of an Assignment (Appraisals, Appraisal Reviews)

An **appraisal** is but one of two types of **appraisal practice** assignments governed by USPAP. The other type of appraisal practice assignment governed by USPAP is the **appraisal review**. Each of these two types of appraisal practice service has its own type of **purpose**.

The vast majority of appraisal practice assignments performed by the personal property appraiser, however, fall within the category of **appraisal** assignments. While USPAP also applies to appraisal reviews, the volume of appraisal reviews performed by the personal property appraiser is miniscule when compared to the volume of appraisals performed. Consequently, the focus of this book will be primarily on appraisal assignments.

Note that in earlier versions of this book instead of the term "purpose" of an assignment we used the term "objective" of an assignment. Changing to the term "purpose" better reflects USPAP nomenclature. For instance, USPAP's Standards Rule 3-2(c) states that when developing an appraisal review, the reviewing appraiser must (among many other things):

> *…Identify the **purpose** of the appraisal review...* [emphasis added]

And Standards Rule 4-2(c) requires that the appraisal review report must (among many other requirements):

> *…State the **purpose** of the appraisal review...* [emphasis added]

For all intents and purposes, the two terms can be used interchangeably, but for this book we will use the term "purpose" in lieu of "objective."

- **Purpose of an Appraisal Assignment**

  The **purpose of an appraisal** is the reason for which the appraisal is being done, i.e., the **purpose** is what the appraiser is seeking.

  Each appraisal assignment has a purpose which calls upon the appraiser to develop and communicate an opinion of value to the client and perhaps to other intended users as well. **For appraisal assignments**, "purpose" corresponds to the **type of value** identified by the appraiser as appropriate for that particular assignment. The purpose of an appraisal assignment is identified by the appraiser, but, of course, in consultation with the client.

  The purpose of an appraisal assignment is **monetary** in nature, i.e., the purpose is to determine an opinion of a defined type of value (either as a point value, as a range of values, or as a relational value (more than, less than, etc.)) as of a specific date.

  - **Point values**. Examples of an appraisal purpose being a point value would be to develop an opinion of fair market value for the intended use of a noncash charitable contribution, or to develop replacement value (new) for a flat screen TV.

  - **Range of values**. An example of developing a range of values might be for a client who, intent on selling a property, requests that the appraiser develop an

opinion of a range of market value within which the client could negotiate the sale. Another example would be a client who asks the appraiser to only provide the most comparable sales data for the subject property. If the appraiser exercises judgment to decide which market data is most comparable and provides only that data to the client (while excluding other data), then the appraiser has prepared an appraisal by, in effect, providing a range of value opinions to the client.

- **Relational values**. On occasion, a client simply wants to know if the market for a previously-appraised property has changed and whether the value of the subject property has remained the same, increased or decreased since a prior appraisal. In making a determination one way of the other, the appraiser is performing an appraisal as defined in USPAP.

Non-Monetary Opinions

At times, though, appraisers may also be asked to give opinions that are non-monetary in nature, e.g., to give an opinion as to authenticity, condition, or the most lucrative means of marketing. Appraisers may be asked to do this while performing as an appraiser or they may be asked to provide these non-monetary opinions while acting outside the role of an appraiser, such as might be the case if the appraiser was also an auctioneer, dealer or estate liquidator.

Note that non-monetary opinions are **not** appraisals, but may be governed, nonetheless, by certain parts of USPAP depending on whether or not the individual providing the non-monetary opinions is representing him- or herself to the client as performing as an appraiser. We'll address this topic later in Chapter 7 which focuses on USPAP and when USPAP applies to the individual while performing as an appraiser as well as while performing as a non-appraiser.

Supplemental reading:

- USPAP STANDARD 7 *Personal Property Appraisal, Development*
- USPAP STANDARD 8 *Personal Property Appraisal, Reporting*

- **Purpose of an Appraisal Review Assignment**

The **purpose of an appraisal review** is to develop and communicate an opinion about the **quality of another appraiser's work**, i.e., a determination whether or not the assignment under review is consistent with the requirements of the engagement letter which sets forth the scope of the appraisal assignment under review. Review appraisals may or may not include a requirement for the appraiser to develop his or her own opinion of value.[81]

Supplemental reading:

- USPAP STANDARD 3 *Appraisal Review, Development*
- USPAP STANDARD 4 *Appraisal Review, Reporting*

[81] See the Chapter 7 section entitled *When Must an Appraiser Comply with USPAP* for a related discussion.

Market

We use the term market not in referring to a specific location, but rather as a concept which represents commercial activity whereby goods and services are exchanged—typically for money. When making use of the sales comparison approach to value, selecting the **most appropriate** market to research when gathering comparable market data on which to base an opinion of value is of paramount importance to every appraisal assignment making use of this important approach to value.

The assignment's **scope of work** and the **intended use** of an appraisal will direct the appraiser's research and choice of which market and **market levels** (see below) the appraiser must research in order to obtain the necessary market data upon which credible opinions of value can be based.

Since items of personal property can be sold in more than one market at differing price points, the appraiser must be knowledgeable of those various markets and which market is most relevant and appropriate given the property type being appraised as well as the assignment's intended use and the appraiser-identified scope of work necessary to develop credible assignment results.

The appraiser must not just focus merely on individual transactions that occur within the market. In addition to understanding individual transactions, it is critical that the appraiser also understands the market itself as a whole including:

- Who are the typical buyers and sellers?
- What are their motivations to buy or sell?
- Are they under pressure to buy or sell?
- Are they knowledgeable of relevant facts?
- Are they acting in their own self-interest?
- Is the market active or dormant?
- Is the market local, regional, national, or international?
- Are values increasing or decreasing?

Levels of Trade

In general, there are four types of markets that the appraiser may have occasion to research. These are referred to as **levels of trade**. This term refers to a merchandising structure characterized by different trading levels having different price points at which the merchandise is bought and sold, so each level of trade generates its own set of data. The primary differences between these four levels of trade are the market participants (e.g., an end user vs. a re-seller) and the time frame available for transactions to occur (e.g., no time limit such as a retail store, nominal time frame such as an estate auction, very limited time frame such as a forced sale).

The Comment to Standards Rule 7-3(b) of USPAP states:



Comment: The appraiser must recognize that there are distinct ***levels of trade*** *(measurable marketplaces) and each may generate its own data. For example, a property may have a different value at a wholesale level of trade, retail level of trade, or under various auction conditions. Therefore, the appraiser must analyze the subject property within the correct market context.* [emphasis added]

The four markets (i.e., the four "levels of trade") commonly used by the appraiser are:

- **Retail market**. A retail market is the market in which items are sold at retail, i.e., to the "end user." The end user is one who does not purchase for resale—at least not in the property's "current form." Antique stores, car dealerships, art galleries, second-hand stores, discount stores, consignment shops, department stores, jewelry stores, QVC, Internet stores, etc. are all examples of the retail market. Note that in their analysis appraisers should take into consideration dealer "discounts" if such discounts are commonly offered by the seller to their retail customers.

  Current form. In the retail market, goods are sold to the end user who retains the property without the intent of reselling the item—at least not in its current form. But a retail purchaser may become a reseller if a sale is made after the "form" has been changed. As an example, an automotive junk yard is the retail customer for a junked car because the junk yard does not typically resell the junked car as-is. They resell the parts (and in doing so they changed the "form") but not the vehicle itself. Thus, the junk yard is a retail buyer of junked cars. In a similar manner, a used bookstore is a retail buyer for a very large number of used books because the bookstore would not typically resell the "lot." Instead, they would break up the collection and resell it piecemeal, i.e., in a different "form."

- **Wholesale market**. A wholesale market is the market in which wholesalers sell to the trade (i.e., to those who purchase with the intent of reselling the item in its current form for a higher price). Depending on the type of property, there may be more than one layer of wholesale purchases before the property reaches the retail customer. The item might go from manufacturer to regional distributor; then to a local distributor; and finally, to the retailer—each of these three layers is considered a wholesale market since each buyer intends to resell the property.

  The wholesale price of a new vehicle is the price that a dealer would pay to purchase it from a car manufacturer. In the case of used vehicles used as trade-ins, the wholesale price might also be the price a dealer would pay to purchase the vehicle from a dealer auction. In any case, the wholesale price paid is a measure of dealer cost.[82]

- **Orderly liquidation market**. An orderly liquidation market is the market in which property is regularly sold in an orderly and advertised fashion but for which nominal but adequate time constraints apply, i.e., there is reasonable exposure time. Examples of an orderly liquidation market include auction galleries, on-site auctions, and estate tag sales.

- **Forced liquidation market**. A forced liquidation market is any market in which property is sold quickly, within a very restricted exposure time frame, and often without regard to the most appropriate (i.e., most lucrative) marketplace. A short-notice auction of the contents of a storage unit at a local self-storage facility is an example of a forced liquidation market. The "give-away" prices adopted to entice a sale in the concluding hours of an estate or yard sale is another example of a forced liquidation market.

[82] The actual amount a dealer might offer for a trade-in may be slightly lower than its wholesale value because the dealer wants to cover unanticipated expenses in the event that there's a hidden problem with the trade-in.

Appraisers must make use of the **most relevant** level of trade, i.e., the market that best reflects the type and definition of value being developed by the appraiser which, in turn, is based on such issues as the intended use of the appraisal, the needs or requirements of the client or other intended users, or, perhaps, on markets mandated by law or regulation, such as by IRS regulations which require the use of the market "in which retail sales **most commonly** occur to the public."

Market Levels

Within a particular level of trade there exists different **market levels** which may offer the same product but at different price points—thus appealing to different classes of buyers. For instance, examples of market levels within the retail market level of trade for an appraisal being done for acquiring insurance coverage might include upscale department stores offering goods at full manufacturer's suggested retail price (MSRP) and retail discount stores which offer the same merchandise for less. A sterling silver flatware service can be purchased from a posh department store for full retail price, but the same service can also be purchased from discount stores for 20% off retail. In addition, the silverware can often be purchased from replacement services for 50% off retail.[83]

The Comment to Standards Rule 7-3(a) of USPAP states:



Comment: In the context of personal property, value can be a function of the choice of the appropriate market or, in some cases, market level for the type of item, the type and definition of value, and intended use of the appraisal.

Within a specific level of trade there exist differing **market levels** (i.e., **examples** of the market) which offer the same product for a different price—thus appealing to a different class of buyers. For instance, consider examples of market levels within the **retail** market for an appraisal being done for the purpose of the client acquiring insurance coverage. There are upscale department stores offering goods at full manufacturer's suggested retail price (MSRP), and then there are retail discount stores (brick-and-mortar or online) which offer the same merchandise for less. A sterling silver flatware service can be purchased from a posh department store for full retail price, but the service can also be purchased from discount stores for 20% off retail. In addition, the silverware can often be purchased from Internet replacement services for 50% off retail.

In a similar manner, there are various market levels for the forced liquidation level of trade. Depending on several factors including the amount of time available to expose the property to the marketplace, examples of the forced liquidation level of trade could include auctions, yard sales, estate (tag) sales, online auctions, or a "lot" sale (the whole lot of multiple items for one price) directly to a dealer.

Primary vs. Secondary Markets

Retail markets can be categorized as either **primary** or as **secondary** markets.

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[83] See the Chapter 6 section entitled *Principle of Highest and Best Use* as well as the Chapter 9 section entitled *Most Appropriate Market* for complimentary discussions regarding Levels of Trade and Market Levels.

- A **primary retail market** is a market in which new items that are still being created by the manufacturer are available for sale **for the first time**. A gift store is an example of a primary market for Hummel figurines that are still in production. An example of a primary market for current-model flat screen televisions and cell phones is a home electronics store.

- Any market in which purchases of previously-owned property are made by subsequent owners can be considered as a **secondary retail market**.

  Technically, though, a **secondary** retail market is a market in which items **that are still being created** by the manufacturer are being **resold** to subsequent owners. Examples of a secondary market for current-model sofas and television sets might be through classified ads in the local newspaper, via Internet re-sale sites such as craigslist.com or at local auctions or estate sales. In such cases, the items are still in production and are still available through a primary market, but they are also being resold to a new owner within a secondary market.

  Note that such items being purchased on the secondary market are still available (normally at a higher cost) through the primary market. Consumers are usually willing to pay more for the property through a primary market because with purchases through a primary market the consumers obtain an unused property complete with original packaging, warranties, the right-of-return, and often with financing. These benefits are typically unavailable when purchasing the same item at the secondary level.

When items are no longer being created by the manufacturer, the **secondary market becomes the primary market**. Items such as antiques and collectibles, retired Hummel figurines, discontinued sterling silver flatware services, and dinnerware services that are no longer in production are obtained from dealers, auctions, yard sales, Internet websites, etc. These sources have now become the primary market for these items since they are no longer being created by the manufacturer.

Appraisal Process

An appraiser develops an opinion of value that is based on fact. Developing appraisals and reporting the results in an orderly manner following a tested and proven series of steps will help ensure that all relevant information is considered and that the appraiser's conclusions are sufficiently supported by facts so that they are credible (i.e., worthy of belief), understandable, and not misleading. In order to achieve such results, the appraiser follows a set of steps which, taken from the beginning and extending to the completion of an appraisal assignment, is referred to as the **Appraisal Process**.

This section reviews the seven basic steps in the appraisal process. It is necessary that this list be comprehensive. As a result, some terms or concepts within this section may be unfamiliar to you at this point; however, the Appraisal Process will become clearer to you when you cover it again as it relates to USPAP in the Chapter 7 section entitled *The Appraisal Process and USPAP*.

The seven steps of the appraisal process include:

- Step 1: Identify the appraisal problem
- Step 2: Determine the scope of work

- Step 3: Analyze the property's use, select the appropriate market, analyze relevant economic conditions (marketability, rarity, supply and demand)
- Step 4: Collect and analyze data, apply the most appropriate approach(es) to value
- Step 5: Analyze listings and prior sales of subject property
- Step 6: Reconcile value indicators and develop a final opinion of value
- Step 7: Communicate assignment results to client

Step 1: Identify the Appraisal Problem



The very first obligation an appraiser must satisfy even before agreeing to perform an appraisal (or appraisal review) assignment is to **identify the problem**. For appraisal assignments, the information that must be identified in order to properly identify the **appraisal** problem is contained is USPAP SR 7-2 *Problem Identification*. Identifying the appraisal problem allows the appraiser to subsequently make a determination (in Step 2) as to the scope of work that will be necessary to be performed in order to develop credible assignment results. And as importantly, identifying the appraisal problem allows the appraiser to determine (before agreeing to perform the assignment) whether or not he or she is even competent to complete the assignment credibly in the first place![84]

In this first step, the appraiser identifies several **assignment elements** in order to enable him or her to identify the appraisal problem. USPAP defines *Assignment Elements* as:

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>
> *ASSIGNMENT ELEMENTS: Specific information needed to identify the appraisal or appraisal review problem: client and any other intended users; intended use of the appraiser's opinions and conclusions; type and definition of value; effective date of the appraiser's opinions and conclusions; subject of the assignment and its relevant characteristics; and assignment conditions.*

Identifying the appraisal problem is an essential step, as evidenced by the number of times USPAP addresses the issue. Identifying the appraisal problem is required not only by the COMPETENCY RULE but also by the SCOPE OF WORK RULE. Regarding the appraisal of personal property, USPAP SR 7-2 *Problem Identification* contains the governing guidelines for identifying the appraisal problem.

When identifying the appraisal problem, the appraiser will:

- Conduct an initial client interview. It is through the client interview that critical information will be obtained which will allow the appraisal development and reporting processes to be accomplished in a competent manner. The use of a *Client Data Form & Assignment Activity Log* form will prove beneficial.[85]

- Identify the client and owner of the property (may or may not be the same entity).

- Identify all intended users of the appraisal and their needs.

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[84] USPAP's COMPETENCY RULE requires that, even before agreeing to perform the assignment, the appraiser determines that he or she has the ability to complete the assignment competently.
[85] See Appendix A *Client Data Form & Assignment Activity Log* for an example.

- Identify the intended use of the appraisal.
- Identify the effective date of the value opinions.
- Identify ownership interest to be valued (usually 100%) and any encumbrances or restrictions thereon.
- Identify the type and definition of value to be developed; develop an opinion of exposure time if exposure time is a component of the definition of the type of value being developed.
- Identify the specific subject property (including its relevant characteristics) as well as its location(s). While personal property is often well-known by a homeowner, often the client (such as a distant claim adjuster) is only vaguely knowledgeable about the property. Knowing the location of the property will allow the appraiser to better prepare for eventualities of inspecting property in cold warehouses, damp basements, hot attics, dusty farm outbuildings, or secured properties that allow only limited access such as a locked building or a gated community.
- Identify the assignment conditions including limiting conditions, assumptions, extraordinary assumptions, hypothetical conditions, jurisdictional exceptions (albeit rarely), and others, such as certain client-imposed requirements.[86]
- Recognize limitations to your level of competency and plan to overcome them by added study or associating with other appraisers and/or subject-matter experts.[87]
- Establish contractual arrangements with the client including your fee structure.

Step 2: Determine the Scope of Work

Determine the scope of work **necessary to develop credible assignment results**. Scope of work is governed by USPAP's SCOPE OF WORK RULE.[88]

Scope of Work is defined by USPAP as:



SCOPE OF WORK: The type and extent of research and analyses in an appraisal or appraisal review assignment.

Scope of work includes but is not limited to the following:

- The degree to which the property is inspected or identified,

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[86] Assignment conditions include any condition that affects the scope of work. Client requirements would fit the definition of Assignment Elements only if those client-imposed requirements were to affect scope of work.
[87] See USPAP's COMPETENCY RULE.
[88] See the Chapter 3 section entitled *Scope of Work* as well as the Chapter 7 section entitled *SCOPE OF WORK RULE* for additional discussions regarding scope of work.

- The extent of research into the physical or economic factors that could affect the property,
- The extent of data research, and
- The type and extent of analysis applied to arrive at opinions or conclusions.



The scope of work must be appropriate for the intended use of the appraisal. The amount of work undertaken for the intended use of a non-cash charitable contribution of property having a fair market value in excess of $5000 will be considerably more than the amount of work undertaken pricing items for a client planning on conducting a yard sale.



The scope of work also needs to be "acceptable." According the USPAP's SCOPE OF WORK RULE, in order to be acceptable, the scope of work must meet or exceed the expectations of parties who are regular intended users of similar assignments. In addition, the scope of work must meet or exceed the actions of the appraiser's peers when they are performing a similar assignment under USPAP.

USPAP defines *Appraiser's Peers* as:

> *APPRASIER'S PEERS: other appraisers who have expertise and competency in a similar type of assignment.*

Step 3: Analyze the Property's Use, Select Most Appropriate Market, Analyze Economic Conditions

In this Step the appraiser must analyze the property's current use as well as any alternative uses (but only if such alternative uses may result in a different value) relevant to the type and definition of value and intended use of the appraisal. This is of paramount importance since for personal property, the value of the property is typically a function of the choice of marketplace (i.e., the level of trade), the market level for the type of item, the type and definition of value, and the intended use of the appraisal.

It is in this Step 3, based on value type and definition, in which the appraiser makes the determination as to the most appropriate market to research for comparable market data on which he or she will base an opinion of value.

The appraiser will also analyze any relevant economic conditions existing as of the effective date such as trends and fads, degree of subject property acceptability, supply and demand, scarcity or rarity.

The development of Step 3 is governed by USPAP SR 7-3 *Property's Use, Market, and Relevant Economic Conditions*.

Step 4: Collect and Analyze Data, Apply Most Appropriate Approach(es) to Value

In this step, prepare for the assignment, conduct the inspection, and make use of outside assistance as necessary to help appraise, identify and/or authenticate. In this step, the appraiser

analyzes the subject property within the context of the most appropriate market and considers how the subject property compares with similar properties that have sold in the past or that are currently for sale.

The appraiser identifies the property, its quality, its relevant characteristics, and how the subject property compares to other comparable properties (better than? same as? worse than?). The appraiser's value conclusions will reflect the manner in which the marketplace (i.e., would-be buyers and sellers) respond to the presence or absence of those economic, quality and physical characteristics.

- Gather necessary forms, tools and supplies for the on-site inspection, if need be.
- Arrange for other appraisers, experts, consultants to be on site as needed.
- Schedule and conduct property inspection in accordance with the scope of work requirements, assignment conditions, and the intended use of the report.
- Document the property's description, origin, age, condition, dimensions, maker, and other relevant characteristics such as aesthetic qualities, materials, provenance, etc.; make use of grading or authentication reports if necessary.
- As necessary, use other appraisers, experts, or consultants to provide you with the identity of the subject property including the property's relevant characteristics. On occasion, in lieu of a personal inspection, obtain the necessary photographs and/or information needed to identify the property from the client.[89]
- Prepare for possible use of post-inspection consulting experts including those needed for identification, repair or restoration, grading or authentication purposes.
- Research the most appropriate market to identify comparable sales, asking prices or other relevant market data on which to base final opinions or conclusions.

Of particular importance to the personal property appraiser, when appraising multiple items, focus your research and analysis on those items that are most significant. USPAP SR 7-4(e) states:

> *When appraising multiple objects, the appraiser must consider the significance of the value of the individual assets to the assignment results. Those objects which are more significant to the assignment results should be the focus of the analysis and analyzed in appropriate detail.*
>
> *Comment: A group of objects may have a mix of high and low value items. Those objects that are more significant to the assignment results should be subject to a greater and appropriate depth of analysis.*

Apply the most appropriate approach(es) to value (i.e., the sales comparison approach, cost approach, and/or income approach). The appraiser determines how relevant each approach to value is in the context of the intended use and type and definition of value being developed. For

[89] See the Chapter 3 section entitled *Inspection vs. Non-Inspection.*

personal property, the sales comparison approach and the cost approach are normally the most appropriate approaches to value to use. Be prepared to include in the appraisal report which approaches were employed and which were discarded and why they were discarded as is required for personal property appraisal reporting by USPAP SR 8-2(a)(x)(1,2) (when using the Appraisal Report option) and 8-2(b)(xii)(1,2) (when using the Restricted Appraisal Report option) which both state:



…provide sufficient information to indicate that the appraiser complied with the requirements of STANDARD 7 by:

(1) summarizing the appraisal methods or techniques employed;

(2) stating the reasons for excluding the sales comparison, cost, or income approach(es) if any have not been developed…

Step 5: Analyze Subject Property Listings or Prior Sales

In Step 5, if necessary for credible assignment results (if not, then such an analysis is not required to be performed or reported), the appraiser must:[90], [91]

- Analyze all agreements of sale, validated offers or third-party offers to sell, options, and listings of the subject property current as of the effective date of the appraisal (if warranted by the intended use of the appraisal); and

- Analyze all prior sales of the subject property that occurred within a **reasonable and applicable** time period (the intended use of the appraisal and the significance of the property type determine relevancy), and summarize the analysis. If an analysis is determined to be relevant, a summary might include such matters as were prior sales at arm's-length or what were the levels of trade of the sales venues: dealer-to-dealer? auction-to-collector? auction-to-dealer? buyer and seller assumed to be equally knowledgeable? (2020-2021 USPAP FAQ #263)



For personal property appraisal reporting, Step 5 is governed by USPAP SR 8-2(a)(x)(3) when using the Appraisal Report option. It states:

…provide sufficient information to indicate that the appraiser complied with the requirements of STANDARD 7 by: …

(3) summarizing the results of analyzing the subject property's sales, agreements of sale, options, and listings when, in accordance with Standards Rule 7-5, it was necessary for credible assignment results and if such information was available to the appraiser in the normal course of business;

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[90] The data needed for this analysis may not be available or relevant in all assignments. This analysis is required only if such information is available to the appraiser in the normal course of business. For more regarding "normal course of business" see USPAP AO-24 *Normal Course of Business.*

[91] See USPAP AO-1 *Sales History* for a discussion regarding the need for analyzing agreements of sale, options, listings and certain past sales of the subject property.

Comment: If such information is unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required. If such information is irrelevant, a statement acknowledging the existence of the information and citing its lack of relevance is required.



Step 5 is governed by a similarly-worded 8-2(b)(xii)(3) when using the Restricted Appraisal Report option. It states:

…provide sufficient information to indicate that the appraiser complied with the requirements of STANDARD 7 by: …

(3) summarizing the results of analyzing the subject property's sales, agreements of sale, options, and listings in accordance with Standards Rule 7-5,[92]

Comment: If such information is unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required. If such information is irrelevant, a statement acknowledging the existence of the information and citing its lack of relevance is required.

Step 6: Reconcile Value Indicators, Develop Final Opinion of Value

Making use of the most relevant valuation approach(es), reconcile value indicators and reach a final value opinion. The appraiser normally forms an opinion as a single dollar value, but sometimes it is necessary to provide a range of possible values for the property being appraised.

During this step, the appraiser will:

- Make use of the relevant data and discard irrelevant data and market data anomalies.
- Make use of information provided by other appraisers, experts, repair/restoration sources or grading or authentication services, if any.
- Reconcile data taking into account the quality and quantity of the data and other available relevant information.
- Make adjustments in value for differences in the quality, economic and physical characteristics between subject and comparable properties through value ranking.
- Develop a final opinion of value.



For personal property appraisal reporting, Step 6 is governed by USPAP SR 8-2(a)(x)(4 & 5) when using the Appraisal Report option. These sections state:

…provide sufficient information to indicate that the appraiser complied with the requirements of STANDARD 7 by:

[92] According to the ASB, this Standards Rule will be modified in the next USPAP cycle (2022-2023) with the addition of the missing "if necessary for credible assignment results…" caveat in order to mirror SR 8-2(a)(x)(3).

(4) stating the value opinion(s) and conclusion(s); and

(5) summarizing the information analyzed and the reasoning that supports the analyses, opinions, and conclusions, including reconciliation of the data and approaches;



Step 6 is governed by 8-2(b)(xii)(4) when using the Restricted Appraisal Report option. Note that the requirement for including the summary of information analyzed and the supporting reasoning is not required for the Restricted Appraisal Report. It states:

…provide sufficient information to indicate that the appraiser complied with the requirements of STANDARD 7 by: …

(4) stating the value opinion(s) and conclusion(s);

Comment: An appraiser must maintain a workfile that includes sufficient information to indicate that the appraiser complied with the requirements of STANDARD 7 and for the appraiser to produce an Appraisal Report.

Step 7: Communicate Assignment Results to Client

In general, the appraisal report must be credible and must not be misleading. It should contain sufficient information to allow the client and all intended users to understand the report including:

- How the opinions, analyses and conclusions were developed
- The basis for the reported opinions, analyses and conclusions
- Any limiting or hypothetical conditions encountered and any extraordinary assumptions made by the appraiser in arriving at his or her final value conclusions.
- Any applicable disclaimers and terms of use of the appraisal report

Prepare the appraisal report in accordance with STANDARD 8 *Personal Property Appraisal, Reporting* of USPAP. The report must be written according to one of the two appraisal report options stipulated in Standards Rule 8-2 *Content of Personal Property Appraisal Report*, i.e., either the Appraisal Report or Restricted Appraisal Report option, and should contain a signed USPAP certification as required in Standards Rule 8-3 *Certification*. If preparing for an oral appraisal report, conform to USPAP Standards Rule 8-4 *Oral Appraisal Report*.[93]

[93] See the Chapter 7 section entitled *The Appraisal Process and USPAP* for an additional and more in-depth discussion of the Appraisal Process.

Chapter 2: Appraisal Principles Part I (Value and Cost)



In Chapter 2, we explore the types of tasks encountered by the appraiser. Most often, the appraiser is asked to develop a written opinion of a defined type of value, or to estimate a type of cost such as how much it would cost to replace an item of property should the need arise. The appraiser might also be asked to perform what some refer to as a "walk-through" appraisal. The walk-through is an oral (not written) appraisal report such as one having the intended use of equitable distribution among heirs. For all oral reports, USPAP's RECORD KEEPING RULE requires that a proper workfile be maintained. The workfile must include a summary of the oral report, a signed and dated USPAP Certification Statement, and sufficient information to produce a written Appraisal Report should the need arise.[94]

We will discuss these issues in Chapter 2, beginning with the various types of values and costs the appraiser is likely to encounter.

By the way, in addition to appraisals, the appraiser might also be asked to conduct an "appraisal review," which is the review of another appraiser's work product. We cover appraisal review assignments in Chapter 7 *Uniform Standards of Professional Appraisal Practice (USPAP).*

Value

As noted earlier, value is an opinion of the worth of all the anticipated rights, benefits and satisfactions arising from ownership of a property. Value is always given as of a specific date and in accordance with a specified definition of value.

Value has two primary meanings—**value-in-use** and **value-in-exchange.**

A property has a certain **value-in-use** (commonly referred to as "owner value") which is proportional to the extent to which the property contributes to the personal needs, satisfactions or requirements of a particular owner. That "owner" could be an individual or a business. (If the latter, this value is referred to as **value-in-place** and includes an incremental premium in value which recognizes the positive contribution the property makes to the success of the going concern by the mere fact that the property is installed and operational.)

The same property, however, also has **value-in-exchange** (commonly referred to as **market value**) which would be equal to the amount of money usually exchanged for such properties within an open market where there are many typically motivated and knowledgeable buyers and sellers. ("Market value" will be discussed in greater detail below, but for now, suffice it to say that opinions of market value are often developed by the appraiser for clients wishing to buy or to sell a property.)

Value-in-exchange and value-in-use are seldom equal. Things which have the greatest value-in-use (such as drinking water) frequently have little or no value-in-exchange. Conversely, those properties which have the greatest value-in-exchange (such as Tiffany lamp which is considered a rare item of decorative art) often have little value-in-use.

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[94] See the section of this Chapter entitled *Walk-Throughs.* See also the Chapter 5 section entitled *Oral Appraisal Reports*

Value-in-Use

Value-in-use is the value of personal property taking into consideration the extent to which the property contributes to the needs, satisfactions or requirements of the owner. Value-in-use is the worth of a property as it is currently being used.

Consider my favorite recliner. It is broken-in and very comfortable, but it is badly worn. If asked to sell my favorite chair, I would not accept less than $300 for it because its value-in-use (owner value) is substantial to me. I would be hard-pressed to find one as comfortable—not to mention that it would be a lot of trouble to locate and install a replacement. But for $300, it would be worth the trouble. The chair's value-in-use, then, is $300 but its value-in-exchange is significantly less. The value-in-exchange (reflected by the chair's "market value") is a mere $25. Why?

Market value (i.e., value-in-exchange) is established by what most knowledgeable and prudent buyers would pay in exchange for a similar property, and few would be willing to pay more than $25 for my old, worn chair.

For real property, issues of **highest and best use** become important when discussing value-in-use. A tract of land in the path of growth of a major metropolitan area that is being used as a cotton farm might have a value-in-use of only $3,000 per acre as cotton-producing land, whereas its value-in-exchange (market value) as land on which a subdivision could be built (i.e., reflecting the land's highest and best use) would be $50,000 per acre.

For personal property, however, the concept of highest and best use translates to the appraiser's choice of the market that is most appropriate for the type and definition of value being developed.[95]

Unlike any other type of value, value-in-use (a.k.a. "owner value") recognizes the role **sentimentality** and **personal preference** play in establishing a value to the owner, if to no one else. I might not want to sell a WWI Army uniform for less than $15,000 because it was once owned by my great grandfather who wore it into battle. To me, the value-in-use is $15,000, but to others who do not have the family connection its value-in-exchange (i.e., its market value) would be much, much less.

Value-in-Place

Value-in-place is a type of value-in-use associated with business personal property. As noted earlier, value-in-place includes an added premium in value in recognition of the positive contribution the property (already installed and operational) makes to the success of a business that will continue operating as a going concern. There are two types of value-in-place:[96]



- **Orderly liquidation value-in-place** Orderly liquidation value-in-place is the price that a knowledgeable buyer would pay a knowledgeable seller **who is under duress**, for business assets being purchased in place to remain in operation in "as is" condition in the manner for which they were originally intended. Orderly liquidation value-in-place assumes an adequate period of time to properly advertise the assets in a manner that is

[95] See the Chapter 6 section entitled *Principle of Highest and Best Use* for a related discussion.
[96] For a related discussion, see the Chapter 2 section entitled *Orderly Liquidation Value.*

commercially reasonable. However, it is clearly understood by both the buyer and seller that the sale of the assets is under duress, and that the marketing time is limited to a predetermined period of time is limited (usually between six and twelve months).



- **Market value-in-place**, on the other hand, is the price at which business assets would change hands between a willing and able buyer and seller, with **neither under compulsion** to act, and with both having full knowledge of the relevant facts. The assets being purchased are to remain in place and in operation in the manner for which they were originally intended with the seller accurately and completely representing the existing condition and operability of the assets to the buyer.

Value-in-Exchange

The very basis for **market value** itself is the concept of **value-in-exchange**, i.e., the amount of money that would be realized if a property was exchanged for money.

Value-in-exchange is based on the ability for the buyer to exchange an item (typically money), for goods and services that can then be used to satisfy the buyer's wants and needs. Value-in-exchange is that value (i.e., that level of satisfaction) that is obtained indirectly through the acquisition of something else.

Diamonds are rare. Water is common. A diamond has tremendous value-in-exchange when compared to a bottle of water. A buyer will pay more for a diamond than for a bottle of water because greater satisfaction is obtained from the former than the latter. Value-in-exchange forms the basis for market value. The greater the satisfactions of ownership, the greater will be the item's market value, i.e., its value-in-exchange.

Value-in-exchange is normally less than the original purchase price for **depreciable** property such as an everyday sofa. But it could be more than the original purchase price for **appreciable** property such as an antique clock or a work of art. An appraisal of an antique clock might determine its **value-in-exchange** (i.e., its market value) to be $6,200 because that is the amount most prudent and knowledgeable people are buying and selling comparable items for in an open and competitive market in arm's-length transactions.

Value Type and Definition

In order to determine the scope of work required to produce credible assignment results, the appraiser must consider, among other things, the intended use of the appraisal report (i.e., for tax purposes? for acquiring insurance coverage? etc.) as well as the type of value and its definition that the appraiser is to develop. Appraisers must be familiar with several value types, their definitions as well as which value types are most appropriate given the intended use of the appraisal assignment.[97]

Of paramount importance to developing a credible and meaningful opinion of value is the appraiser's selection of the **type** and **definition** of value applicable to a given assignment,

[97] USPAP refers to "type of value" only in the general sense, such as "market value." It is the **definition** of value that provides the specific description of the **characteristics** and **conditions** of the "type of value" being used in an assignment. (2020-2021 USPAP FAQ #172)

because it is the type and definition of value that will direct the appraiser in his or her choice of which marketplace to analyze and what data to use in order to arrive at a credible opinion of value.

USPAP SR 7-3(b) states that when developing a personal property appraisal, an appraiser must:

> *…define and analyze the appropriate market* ***consistent with the type and definition of value****…* [emphasis added]

USPAP also requires that (depending on the report option being used), appraisal reports must disclose the **value type, value definition** and a **source citation** for same.[98] Specifically, USPAP SR 8-2(a)(vi) requires that when making use of the Appraisal Report option the appraiser must:

> *…state the type and definition of value and cite the source of the definition;*
>
> *Comment: Stating the definition of value also requires any comment needed to clearly indicate to the intended users how the definition is being applied…*

Note that the above requirement for stating the value type, definition and source citation is only for assignments making use of the **Appraisal Report option**, but when making use of the Restricted Appraisal Report option, the definition itself need not be stated. According the USPAP SR 8-2(b)(viii) when using the **Restricted Appraisal Report option**, the appraiser need only:

> *...state the type of value and cite the source of its definition: …*

- The **type of value** is the general class of value such as market value or fair market value.
- It is the **definition of value**[99] that identifies specific characteristics and conditions relevant to the type of value. Examples might include a type of value:
    - Which must be based on market data obtained from a market in which sales to the public most commonly occur (such as required by the Treasury Dept. for estate tax appraisals).
    - Which must be from a market in which the insured most typically shops and in which he or she can obtain a replacement property within a reasonable amount of time (such as for insurance appraisals).
    - Which must be based on comparable sales from a market in which neither buyer nor seller is under compulsion to act (such as required by the IRS for noncash

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[98] Appraisers can also include multiple value opinions (such as orderly liquidation value and forced liquidation value) within a single report for which there are multiple intended uses (such as for orderly liquidation or for a distress sale). In such a report, each intended use has a different value type and definition, a different scope of work, and, in all likelihood, will have different value conclusions as well.
[99] USPAP does not provide any specific definition of value or endorse any particular source of a definition. It merely defines the general components required to establish a market value definition. Sources of definitions could be financial regulatory agencies, a legal jurisdiction, an engagement letter, or a textbook. (2020-2021 USPAP FAQ #176)

charitable donation appraisals).

- Which must be from a market in which reasonable exposure time is assumed for an orderly liquidation (or in which **insufficient** exposure time is assumed for a forced liquidation being conducted under severe time constraints). An example would be appraisals being done for sales advisory purposes.

USPAP's Advisory Opinion Advisory Opinion 22 *Scope of Work in Market Value Appraisal Assignments for Real Property*[100] offers further guidance regarding the importance of citing the source of the value definition:

> *Definitions of market value from different sources contain different conditions. Those differences can directly affect the scope of work that is necessary to develop credible assignment results. Each definition is unique, with authority only in a specific jurisdiction or to a specific client group. Therefore, identification of the source for the definition of value to be applied in an assignment is essential… If an appraisal is prepared for use in litigation, using a definition of value other than the definition specified by the court having jurisdiction over the matter being litigated may disqualify that appraisal for use in that court.*

Sources for Value Definitions

USPAP does not provide any specific definition of value; nor does USPAP endorse any particular source for definitions. Value definitions could originate from any number of sources such as IRS tax regulations, appraisal textbooks and courses, legal jurisdictions, regulatory agencies, recognized appraisal associations, or even an assignment engagement letter with a client who himself specifies the type and definition of value to be used.

Selection of Value Type

In general, the appraiser may be guided in his or her selection of the appropriate value type and definition by:

- **The intended use of the appraisal**. An insurance appraisal might require the use of "replacement value (new)" while a noncash charitable donation appraisal will require the use of "fair market value."

- **The needs of the client and other intended users**. A client in a hurry to sell may need a "forced liquidation value" whereas a client having a long time in which to sell may need an "orderly liquidation value."

- **The expectations of the market participants** including the typical intended user of the report. Market participants assume that, if using a type of "market value," that the value definition will include certain commonly-assumed marketplace characteristics such as an open and competitive market, transfer of title as of a specified date, both buyer and seller having knowledge of relevant facts, neither party being under compulsion to act, etc.

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[100] While the title of AO-22 *Scope of Work in Market Value Appraisal Assignments for Real Property* would imply that its application is strictly for **real** property appraisals, AO-22 has sections which are applicable to **personal property** appraisals as well.

- **Mandated requirements**, if any, for the use of a specific value definition. Such requirements might originate from a legal jurisdiction (e.g., the state of California), regulatory body (e.g., the IRS), or a specific user group (e.g., lending institutions that make collateral loans). As an example, the IRS defines the term "fair market value" as it pertains to tax-related appraisals and as it **must** be used by the appraiser.

Intended User Perspective and Requirements

User needs and requirements may dictate the appraiser's selection of value type and definition, the appraiser's choice of which relevant market to research and, in turn, on which comparable properties to base a final value opinion. "Intended users" include the client as well as other parties identified by the appraiser as users of the assignment results such as possibly a decedent's heirs, the client's siblings or business partner, or would-be buyers.

As an example of user perspective, consider an insurance appraisal for which high valued property is scheduled for its stated or agreed value, or when unscheduled property is insured for its replacement value (new). In such appraisal assignments, issues relating to the method of indemnification (e.g., repair, replace or cash out) as well as to the cost of replacement become of concern. The client must look to his or her insurance contract in order to understand their needs since it is the insurance contract that defines the manner in which the client will be indemnified should a loss occur. Should a cash-out be in order, will indemnification be based on market value? replacement value? actual cash value? The answer will direct the appraiser's scope or work including the appraiser's choice of appropriate markets to explore.

A user perspective may also be derived from the client himself who needs to replace insured property by making purchases within a reasonable amount of time from within markets in which the insured typically and most conveniently shops. Such a user perspective would direct the appraiser to define his or her type of replacement value accordingly and make use of those local or perhaps online retail markets normally frequented by the client.

Market Perspective: Market Participant Expectations

Market value appraisals are different from appraisals making use of other types of value (such as replacement value) because market value appraisals make use of the market perspective and what is considered by marketplace participants to be normal and typical. Developing an opinion of market value or a type of market value requires consideration of the expectations of typical market participants.

For example, when developing an opinion of market value, the appraiser makes use of market data from transactions considered typical of those normally occurring within a marketplace that is open and in which there are many knowledgeable participants acting without compulsion. The public's **expectation** is that market value reflects only the perspective of a pure marketplace and is not affected by "other criteria."

"Other criteria" might include mandated jurisdictional value definitions or an appraisal user's objectives, such as an insurance company's need to indemnify a claimant an amount based on replacement value (new) or actual cash value. Another example of "other criteria" would be a client's need to sell the subject property in a short period of time because the client is in a hurry. These "other criteria" are examples of values having been derived from the "user's perspective"

and **not** from a "market perspective." Accordingly, these examples would be inappropriate to use when developing an opinion of what is intended to be a type of "market value."

USPAP Advisory Opinion 22 notes that a market value appraisal applies the market perspective which directly affects the scope of work necessary to develop credible assignment results:

> *The public's expectation that a market value appraisal reflects only the perspective of the marketplace, and is not affected by such other criteria as an intended user's objectives, is important. Meeting this expectation serves to foster and promote public trust in professional appraisal practice, a fundamental purpose of the Uniform Standards of Professional Appraisal Practice and one that applies to all work performed under USPAP.*

Market value definitions always imply a sale of a property and presumes the transfer of property title to the new owner as of a certain date and under specific conditions that are set forth in the definition of the value type that the appraiser has identified as being applicable to the particular assignment. As noted in the DEFINITONS section of USPAP, these conditions generally fall into three categories:

- *The relationship, knowledge, and motivation of the parties (i.e., seller and buyer)*
- *The terms of sale (e.g., cash, cash equivalent, or other terms), and*
- *The conditions of sale (e.g., exposure in a competitive market for a reasonable time prior to sale)*

In addition to market value itself, there are different "types" of market value (such as fair market value, marketable cash value, orderly liquidation value, etc.) all of which assume normal and typical market conditions. If an appraisal assignment contains a condition which would render the assignment **other** than normal and typical and **other** than market-based (such as would be the case in a forced liquidation appraisal or for a client seeking an appraisal in order to obtain insurance coverage), making use of a type of market value would be inappropriate.

Consider a client who is in a hurry to sell and who asks the appraiser to develop an opinion of probable selling price. In such a scenario, a type of market value (which assumes reasonable exposure time) would be inappropriate. Instead, a type of value would be needed which would reflect the most probable price in a sale occurring within the client's limited time constraints. Such a limiting assignment condition is not characteristic of what market participants typically expect from within a normal market which is characterized by participants acting without compulsion.

Accordingly, a different type and definition of value would be required—one that takes into consideration the assignment's condition (i.e., the client's perspective of being under duress to sell) and its impact on an anticipated sale price (i.e., a lower price because of a necessarily limited exposure time in the marketplace). Specifically, in this scenario the appraiser would need to make use of and define **forced liquidation value**—a non-market-value-type which takes selling under duress into consideration.

Defining value accurately ensures that the results of the assignment are in accord with the actual market conditions governing the assignment, that the assignment results are meaningful to the

intended users, and that the assignment results are credible in the context of the intended use of the appraisal.

Market value is discussed in greater detail later in this chapter.

Legal or Regulatory Mandates

On occasion, it is neither the market perspective nor the user perspective that directs the appraiser in his or her choice of the type and definition of value to be used, but rather laws and regulations. The use of a specific type and definition of value, such as fair market value, can be mandated by a court, by law, by a regulatory body such as the IRS, or, in the case of real estate or other collateral loans, by a user group such as lending institutions. When making use of a mandated value type, the appraiser gathers and makes use of data from the markets as identified by the mandated value type **definition**.

- For federal estate tax appraisals, the IRS requires that the retail market in which sales most commonly occur to the public be used when determining fair market value. It is the appraiser's responsibility to identify and make use of the retail market in which the appraiser feels most sales occur to the end user, i.e., to the "public." Certain works of fine art most commonly sell at auction (local? regional? national? international?) while works by a living artist might be most commonly sold only through the artist's agent. On the other hand, used children's clothing most commonly sells at yard sales and not at antiques auctions. These are all examples of the IRS-mandated "most common" market.

- Lending institutions may require the use of liquidation market data for collateral-based loans in order to generate an opinion of forced liquidation value or, perhaps, orderly liquidation value.

- For corporate financial reporting purposes, both U.S. as well international financial accounting standards do now or will soon require the use fair value when valuing business assets and liabilities.

- If for litigation, is there a court-mandated definition of value that should be used for the assignment?

    - In some states, the divorce court is required to fix the **net** value of the marital property as of the date of separation, with net value being defined as marketable cash value of the marital property less the amount of any encumbrances on the property such as liens. The net value is thus the value that a court would consider when dividing assets between spouses.

    - For other types of litigation appraisals involving the **measure of damages**, the mandated value type might be:

        - Fair market value before the incident minus fair market value after the incident,

        - Actual cash value,

- Replacement value, or
- A specific definition derived from case law[101] or jury instructions

For assignments involving litigation, check with the client's attorney for specific court-mandated value types and definitions (as well as its cited source).

Value Definition Dictates Choice of Market to Research

Without first identifying and defining the type of value to use in the assignment, the appraiser would be unable to choose the appropriate market to explore and the appraisal process would grind to a halt!

Why? The definition of the value to be developed in an appraisal dictates specific market conditions under which the appraiser must conduct his or her research. For example:

- Selecting fair market value for an estate tax appraisal would mandate use of the "most common market," as required by the Treasure Dept. estate tax regulations.
- "Replacement value (comparable)" for acquiring "agreed value" insurance coverage for high-value scheduled antiques would require the use of the "market in which the insured most customarily and conveniently shops."
- Lending institutions might require the use of a forced liquidation value as reflected by the auction market for collateral loans.
- The "measure of damages" in a litigation case involving a landlord inadvertently damaging a tenant's property might require the use of replacement value (new and/or comparable) as reflected by prices in the retail stores at which the plaintiff would most customarily shop in order to replace the damaged property.

All these assignment conditions impose parameters on the appraisal assignment which, when identified and followed, help ensure that the assignment results are meaningful within the context of the intended use of the assignment. For instance:

- Assume the client has asked for an appraisal of valuable antiques in order to acquire scheduled insurance coverage. The appraiser learns that the insured's insurance policy would indemnify the insured an agreed value based on the property's **replacement value** in case of loss. The appraiser notes in the value definition that **replacement** value assumes the use of the market in which the insured **customarily shops** and in which a replacement property could be secured **within a reasonable amount of time**. Accordingly, the appraiser would identify and then research the retail market in which the insured would typically shop if required to replace the insured property. Searching

[101] Case law is: "Part of common law, consisting of judgments given by higher (appellate) courts in interpreting the statutes (or the provisions of a constitution) applicable in cases brought before them. Called precedents, they are binding on all courts (within the same jurisdiction) to be followed as the law in similar cases. Over time, these precedents are recognized, affirmed, and enforced by the subsequent court decisions, thus continually expanding the common law." (Source: businessdictionary.com/definition/case-law.html)

markets in which the insured does not normally shop (for instance low-end, discount retailers as opposed to the insured's most customary source of posh, high-level retail vendors) or markets in which the subject property may be but seldom (if ever) is offered for sale would be inappropriate since those marketplaces would fail to conform to the appraiser's definition of **replacement** value.

- Assume, instead, that the client is donating a property to a museum as a noncash charitable contribution. For such purposes, the IRS requires the use of a particular definition of fair market value—a definition that requires, among other things, the use of comparable sales from the retail market in which such property is most commonly sold to the public:

    - For the typical client/taxpayer who is neither a manufacturer or producer, the appraiser would seek comparable market data from well-advertised sales within a market in which, in his or her opinion, most sales transactions occur to knowledgeable retail buyers who have had adequate time to gain reasonable knowledge about the property. This "most common market" for the individual is often a local or national auction venue.

      But for manufacturers or other producers, the "most common market" (unless selling directly to retail customers) consists of the sales to wholesalers or other distributors to or through whom they most customarily sell.

    - The appraiser would not make use of forced liquidation sales as comparable sales because for such comparable sales the seller would have been in a hurry and insufficient time would have been available in which to expose the property to an open market having many knowledgeable participants.

    - While the "most common market" may often be auctions, at times an argument can be made that most transactions for certain types of appreciable property occur at the dealer-to-collector level, i.e., through galleries and not via auction.

      For certain living artists who sell their works **only** through a designated gallery, those gallery sales are often the most common market in which retail sales occur. In such instances, gallery sales for the artist could be used as being representative of fair market value for that artist's work. As another example, it has been successfully argued that the most common market for pre-Columbian artifacts is from a specialist dealer—the source of most purchases of this particular property type where connoisseurship, authenticity, warranty and right-of-return are of paramount importance to the consumer.[102]

- Insurance contracts often dictate that indemnification for lost, unscheduled depreciable property be based on the "replacement value (new)" or perhaps on the "actual cash value" of the appraised property. In either case, the appraiser would explore the least expensive market in which a new property could be obtained through purchase (most commonly) or through construction if need be. (If an actual cash value policy, an appropriate deduction for all forms of depreciation would need to be subtracted from the replacement cost (new) in order to calculate actual cash value. This topic of "replacement cost new less depreciation" will be discussed in more detail later in this chapter.)

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[102] See the discussion of *Biagiotti v. Commissioner* in Chapter 13, *Legal Issues* for details.

Examples of Defining Value

- **Noncash charitable contribution**: Here is an example of how an appraiser might define fair market value for an appraisal assignment having the intended use of noncash charitable donation:

  The definition of Fair Market Value is set forth in Treasury Regulation §1.170A-1(c)(2)[103] *which states that the Fair Market Value is "The fair market value is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts. If the contribution is made in property of a type which the taxpayer sells in the course of his business, the fair market value is the price which the taxpayer would have received if he had sold the contributed property in the usual market in which he customarily sells, at the time and place of the contribution and, in the case of a contribution of goods in quantity, in the quantity contributed. The usual market of a manufacturer or other producer consists of the wholesalers or other distributors to or through whom he customarily sells, but if he sells only at retail the usual market consists of his retail customers."*

  Determining Estate Tax: Here is an example of how an appraiser might define fair market value for an appraisal assignment having the intended use of Federal Estate Tax determination:

  The definition of Fair Market Value is set forth in Estate Tax Regulation §20.2031-1(b)[104] *which states that "The fair market value is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts. The fair market value of a particular item of property includible in the decedent's gross estate is not to be determined by a forced sale price. Nor is the fair market value of an item of property to be determined by the sale price of the item in a market other than that in which such item is most commonly sold to the public, taking into account the location of the item wherever appropriate. Thus, in the case of an item of property includible in the decedent's gross estate, which is generally obtained by the public in the retail market, the fair market value of such an item of property is the price at which the item or a comparable item would be sold at retail. For example, the fair market value of an automobile (an article generally obtained by the public in the retail market) includible in the decedent's gross estate is the price for which an automobile of the same or approximately the same description, make, model, age, condition, etc., could be purchased by a member of the general public and not the price for which the particular automobile of the decedent would be purchased by a dealer in used automobiles."*

- **Insurance claim**: Here's an example of how an appraiser might define the definition of replacement value and the conditions on which it is based for an appraisal intended

[103] See Appendix EE *Treasury Regulation §1.170A-1(c).*
[104] See Appendix Q *Tax Regulation §20.2031 and other Federal Estate Tax Issues.*

to be used by a client seeking indemnification for a mix of appreciable as well as depreciable items lost in a fire:[105]

As defined in Appraising Personal Property: Principles and Methodology (Appraisers Press), replacement value is the amount one would have to pay to replace an item of property (through purchase or construction, and with a new or comparable item as the property type warrants) with a property that provides comparable benefits to the owner as did the property being replaced.

The method for determining an item's replacement value is by estimating the cost of replacing it, i.e., its replacement cost. Replacement value is based on either replacement cost (comparable), replacement cost (new), or reproduction cost (new). Which is used depends on whether or not the property can be suitably replaced with a "brand-new" property, and whether a replacement can be purchased new ready-made or if it must be constructed.

- *For items which can be suitably replaced only with a comparable but not new property, **replacement cost (comparable)** was used as a basis for replacement value (comparable). Replacement cost (comparable) is defined as the cost necessary to replace the item being appraised with a comparable item of property of like kind, age, quality, and utility having similar wear and tear, obsolescence, and characteristics relevant to value and marketability as the item being appraised. Replacement cost (comparable) is useful when estimating the worth of items not capable of being replaced with a brand-new property such as antiques, collectibles, or works of art by a deceased artist.*

- *For items that **can** be suitably replaced with a new item, **replacement cost (new)** was used as a basis for replacement value (new). Replacement cost (new) is defined as the cost necessary to replace the item being appraised with a brand-new item of like kind, quality and utility or with a new upgraded item if the original model is out of production. This definition assumes that a suitable new substitute (or the upgraded model) can be found for the property being appraised. Replacement cost (new) applies to depreciable property for which exact or suitably-acceptable new substitutes can be obtained new. In other words, it is used for items that are still being manufactured and/or are still available new on the open market. Examples include general household contents such as lawn mowers, TVs, and sterling silver flatware, china or crystal in patterns that are still being manufactured.*

- *For items that can only be replaced with a newly constructed item, **reproduction cost (new)** was used as a basis for replacement value (new). Reproduction cost (new) is defined as the total cost to construct a new, exact replica, using the same materials and construction techniques as the original, by a qualified artist or craftsman. Reproduction cost (new) is used for items which cannot be replaced with ready-made new items but for which*

[105] See Appendix L *Sample Appraisal Transmittal Letter for a Noncash Charitable Contribution* and Appendix M *Sample Appraisal Transmittal Letter for Acquiring Replacement Value Insurance Coverage for Scheduled Property* for related sample appraisal transmittal letters.

a replacement with a newly constructed property is acceptable. An example might include the reproduction cost to replace a family portrait executed by a living artist.

Value Types Used by Appraisers

As noted above, there are several types of value typically used by the personal property appraiser. This section covers those value types most often used or encountered. Following a brief discussion of how value is measured, each of the following value types will be covered in detail:

- Market value
- Fair market value
- Fair value (for business assets and liabilities)
- Marketable cash value
- Net value
- Liquidation value (orderly and forced)
- Salvage value
- Scrap value
- Replacement value (new or comparable)
- Actual cash value
- Investment value
- Loss-of-value
- Book value
- Insurable value

Following our discussion of values, we will discuss various types of **costs** and **non-monetary opinions** (the latter of which are not actually appraisals at all).

But first...The International Scene

As mentioned briefly in our Chapter 1 discussion of the definition of the term *Appraisal,* on the international scene, the London-based International Valuation Standards Council (IVSC) (ivsc.org) publishes the *International Valuation Standards (IVS)*. Currently, these international standards focus on the appraisal of real property and business assets primarily for the intended uses of accounting, financial reporting and bank lending.

The Appraisal Foundation is a member of the IVSC and collaborates with the IVSC in an attempt to reach a consensus on certain valuation standards.[106] To this end, The Appraisal Foundation and the IVSC have jointly released a paper entitled *A Bridge from USPAP to IVS — A Guide to Producing IVS-Compliant Appraisals.* The paper summarizes the few requirements of the IVSC which are over and beyond requirements of USPAP and assists appraisers already familiar with USPAP to produce a valuation that is also compliant with the IVS.[107]

In their *International Valuation Standards*, the IVSC defines many terms, three of which are additional value types as noted below. These three additional value types are used in the world of financial reporting, i.e., in the disclosure of financial information between corporate management which prepares financial statements and those who use that information including auditors, investors, lenders, federal regulators, and parties to commercial transactions such as mergers and acquisitions. Fair value, for instance, broadly applies to measuring the value of corporate financial as well as nonfinancial assets and liabilities.

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[106] Some US appraisal societies give their international members who practice solely outside North America the option to follow either the IVSC standards or USPAP.
[107] Read the paper at https://www.ivsc.org/files/file/view/id/1051.

Those terms include:

- **Fair value** *is the estimated price for the transfer of an asset or liability between identified knowledgeable and willing parties that reflects the respective interests of those parties.*[108]

- **Special value** *is an amount that reflects particular attributes of an asset that are only of value to a* ***special purchaser****.*

- **Synergistic value** *is an additional element of value created by the combination of two or more interests where the value of the combined interest is worth more than the sum of the original interests.*

Measuring Value

To measure value (i.e., to "develop an opinion of value"), the appraiser seeks **market data** from within the most appropriate market on which to base that opinion. The most appropriate market is the market which the appraiser identifies as being the most relevant given the intended use of the appraisal (e.g., client wants to make a donation or wants to acquire insurance coverage) and the type and definition of value being used.

Market data includes **asking prices** as well as **past sale prices** of either **identical** comparable properties or, if need be, of **non-identical** yet closely "comparable" properties. So, if there are no market data for identical comparable properties (as is often the case for appreciable personal property such as antiques and fine art), one must look for market data of non-identical yet closely comparable properties. (This, by the way, is known as the **sales comparison approach** to value—one of three approaches to value that will be discussed in Chapter 3.)

Remember that a comparable property has value characteristics identical **or** sufficiently similar to the subject property that it allows comparison for valuation purposes. Identical comparable sales are typical of publicly traded securities or mass-produced manufactured goods such as household appliances or electronics, Barbie dolls and baseball cards. Non-identical comparable properties are those properties of like kind, quality, age, and condition that, though not identical, **provide the same utility and are sufficiently similar as to warrant comparison** such as an antique chair which, while of similar age and style, and having other similar relevant characteristics, is not exactly the same as the chair being appraised. But it is close enough for comparison purposes.

The appropriate market to explore in order to locate market data on which to base an opinion of value will, as discussed earlier, depend on the intended use of the appraisal as well as by the appraiser's selection of value type and definition to use. In other words, by first choosing and defining value type, the appraiser will be directed in his or her choice of which market to explore and research.

For instance, for the intended use of client resale within a limited time frame, the appraiser would need to develop an opinion of "forced" liquidation value. Knowing that, the appraiser would then need to make use of market data discovered as a result of researching the forced liquidation market (such as a wholesale market in which exposure time to the market is necessarily limited

[108] For a discussion of "fair value," see the below section of this Chapter entitled *Fair Value (for Business Assets and Liabilities).*

and less than optimal, and in which dealers pay heavily discounted prices for the "lot"). On the other hand, an appraisal for "orderly" liquidation purposes would require the appraiser to explore a market in which there was a "reasonable" time for exposure of the property to a market in which items are sold piecemeal to informed retail customers. An example of such as a market would be a well-advertised public auction or estate sale.

Market Value

Market value is an **all-encompassing general concept** of worth that is based on a **market** perspective (as opposed to coming from the **intended user's** perspective) and on what marketplace participants view as **typical and normal** market conditions for the type of market value being developed.

Technically, USPAP does not "define" market value, per se, but it does "describe" the concept of market value in its DEFINITIONS section as:



MARKET VALUE: A type of value, stated as an opinion, that presumes the transfer of a property (i.e., a right of ownership or a bundle of such rights), as of a certain date, ***under specific conditions set forth in the value definition that is identified by the appraiser as applicable in an appraisal****.* [emphasis added]

Comment: Appraisers are cautioned to identify the exact definition of market value, and its authority, applicable in each appraisal completed for the purpose of market value.

Appraisal assignments requiring the development of an opinion of market value typically involve the sale or purchase of a property. Accordingly, the appraiser must be knowledgeable of the various markets in which a property could be sold and must make use of that market which is most relevant and applicable for the market value appraisal assignment at hand.

Why is market value such an important type of value? Because it refers to a price that a seller can normally expect to receive from a buyer within the relevant marketplace. Knowing the market value of a property allows a would-be seller to determine an asking price. Without knowing the market value, the seller might price their property too high or too low, either of which could have negative financial results (possibly on the seller as well as on the buyer).

The definition of any value used in an appraisal involves a set of **conditions regarding** the market in which transactions normally occur. **Thus, the definition of value becomes the basis for the appraiser identifying the appropriate market and, subsequently, for selecting comparable data from within that selected market for use in the analysis**. These conditions will vary from value type to value type, but for market value and market value types (e.g., orderly liquidation value, fair market value, marketable cash value, net value, salvage value, scrap value) those conditions generally fall into three categories:



1. The relationship, knowledge, and motivation of the parties (i.e., seller and buyer);
2. The terms of sale (e.g., cash, cash equivalent, or other terms); and

3. The conditions of sale (e.g., exposure in a competitive market for a reasonable time prior to sale).[109]

Market value is characterized by ideal market conditions and reflects the most probable buy-sell price within an open and competitive market, i.e., the amount of money a buyer would probably pay and a seller would probably accept for an item of property in an open and competitive market without undue stimulus (i.e., an arm's-length transaction).

As noted, market value is simply the typical price for which something will trade hands between knowledgeable market participants within a reasonable period of time. In a normal or average real estate market, a "reasonable period of time" might means one to three months. For personal property, however, "reasonable" time might extend from one week for common household goods sold at a local weekly auction, to six to nine months for items sold through an international auction house, to a year or more for items placed on consignment in a retail gallery.

While USPAP does not define market value (the closest it comes is to describe it as a general concept as noted above), USPAP's Advisory Opinion 22 *Scope of Work in Market Value Appraisal Assignments for Real Property*[110] does include the below widely-accepted definition of market value that has been adopted by several federal regulatory agencies. (As you will learn in Chapter 7, Advisory Opinions are, technically, not part of USPAP—they serve only to illustrate the applicability of appraisal STANDARDS and to offer advice for the resolution of appraisal-related issues.)

Being based on the market perspective (as opposed to the intended user's perspective) and on the premise of what is "typical and normal" is what makes market value appraisals distinct from appraisals using other types of value. The market perspective incorporates five fundamental market value **conditions** which are illustrated in the following definition. (As you read this definition of market value, keep in mind the scenario to which it is commonly applied—the appraiser developing an opinion of a type of market value to aid a client in establishing a fair asking price for a property the client intends to sell.) USPAP AO-22 *Scope of Work in Market Value Appraisal Assignments for Real Property* states:

> *"**Market value** means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:*
>
> 1. *buyer and seller are typically motivated;*
>
> 2. *both parties are well-informed or well-advised and acting in what they consider their own best interests;*

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[109] As noted in its USPAP definition, appraisers are cautioned to identify the exact definition of market value, and its authority, applicable in each appraisal completed for the purpose of market value.

[110] While the title of AO-22 *Scope of Work in Market Value Appraisal Assignments for Real Property* would imply that its application is strictly for **real** property appraisals, AO-22 has sections which are applicable to **personal property** appraisals as well..

3. *a reasonable time is allowed for exposure in the open market;*

4. *payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and*

5. *the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale."*

Market value is used as a basis for other market value types such as fair market value, orderly liquidation value and marketable cash value. These various types of market value do not all have the same conditions, though they share a core subset. For instance, the definition of fair market value incorporates all the above conditions with the exception that fair market value assumes that the property is not sold, i.e., title does not change hands, rather title is retained. If market conditions are not what would be considered as "normal and typical" then the use of the term "market value" alone and without a modifier would be inappropriate—thus the aforementioned use of "fair" market value when it is assumed that title does **not** change hands.

Supplemental reading:

- USPAP Advisory Opinion 22 *Scope of Work in Market Value Appraisal Assignments for Real Property*[111]

Market Value: Fundamental Conditions for

It is important to understand the above five fundamental conditions associated with the definition of market value. These value definition conditions must be satisfied (or **assumed** to be satisfied) by all comparable sales being considered for use by the appraiser as a basis in developing an opinion of a type of market value. In other words, these conditions must also have existed at the time of sale of the comparable property in order for that comparable sale to be considered as a basis for an opinion of the **market value** of a subject property.

- **Buyer and seller must be typically motivated and without duress, compulsion or pressure to act**. Both parties should be acting for typical reasons such as the seller disposing of a property to help pay for a child's college education and a buyer purchasing to enhance his or her collection. An example of an atypical motivation would be the seller attempting to avoid bankruptcy by liquidating assets quickly (i.e., a forced liquidation sale) in order to pay debts. Be forewarned, though—what the motivations were for the comparable sale being considered is seldom apparent. But if there are found to have been atypical motivations, then that data **does not qualify** for use as a comparable sale when determining market value of a subject property.

- **Both parties must be well-informed (or well-advised by another)**. Both buyer and seller must be knowledgeable of all the relevant facts in order to be able to make an informed, self-serving decision. An example of an uninformed buyer is a neophyte collector who attends a flea market and purchases a folk-art copper weathervane

[111] While the title of AO-22 *Scope of Work in Market Value Appraisal Assignments for Real Property* would imply that its application is strictly for **real** property appraisals, AO-22 has sections which are applicable to **personal property** appraisals as well.

purported to be 19th century but which is, in fact, a 20th century reproduction. Although acting in his or her own self-interest, the buyer is not well-informed and pays too much. A future appraiser would be **unable** to make use of this data as a comparable sale if determining market value for either a genuine weathervane (or even for a replica weathervane, for that matter) because the sale was made to an ill-informed party.

- **Reasonable market exposure time**. The property must be on the open market and properly marketed for an amount of time considered reasonable for sales in that market. The amount of time will vary from local market to local market and from item type to item type. For common items, a reasonable exposure time might be considered to be 30 days. For more sophisticated and expensive items, a reasonable exposure time might be considered to be 60 to 120 days. It would be improper for an attorney to direct an appraiser to estimate "market value" of a property within a marketing period of only 7 days if it would normally take 60 to 120 days in that market to affect an orderly liquidation sale that would satisfy the "reasonable market exposure time" test of market value. Some types of property, such as Native American Indian artifacts, can only be sold effectively and in an orderly fashion via infrequently-held specialty auctions or high-end dealer shows. These requirements for a lengthy market exposure time must be taken into consideration when appraising the market value of such items. Past sales of comparable properties which were consummated in less than a reasonable market exposure time are **invalid** sales data and must not be used as a basis for market value of a subject property.[112]

- **Payment in cash**. Estimating market value of a subject property requires the use of comparable sales in which payment was made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto. While real estate transactions might include a special arrangement such as throwing in a vacation cruise and a golf club membership in order to entice a sale, such considerations are not normally involved with personal property transactions. In almost all cases, past comparable sales of personal property being considered as a basis for an opinion of market value are sold for cash only.

- **Normal consideration**. Market value also requires the price to represent the normal consideration for the property sold—unaffected by special or creative financing or sales concessions granted by anyone associated with the sale. While real property transactions might at times make use of payments affected by creative financing (such as a note being taken back by the seller), such transactions are rare when buying and selling personal property. Regardless, past sales in which creative financing or sales concessions were involved **are not good** candidates for use as comparable sales on which to base an opinion of market value.

The above-mentioned five fundamental conditions of market value apply to market value itself as well as to the various "types" of market value of which those most commonly encountered are listed below and include fair market value, fair value (for business assets and liabilities), orderly liquidation value, marketable cash value, net value, salvage value and scrap value.

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[112] For an extended discussion, see the section entitled *Exposure Time and Marketing Time* later in this chapter.

In the below list, you will see that differences between market value and the various types of market value hinge on such issues as the market selected in which to conduct research, on whether or not title changes hands, on time-to-sale, and (for marketable cash value) on the costs associated with the sale.

- **Market value** is an opinion of the amount of money, as of a specific date, that would be realized if the property was sold in a market that is "open and competitive;" in which all parties act prudently, are knowledgeable of all relevant facts and are acting in their own best interests; in which both parties are typically motivated and neither is under compulsion to act; in which reasonable market exposure time is allowed (for example 60 or 120 days); and in which a sale **will** take place and title **will** change hands by a **date certain**.

- **Fair market value** is the price, as of a specific date, at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of the relevant facts. Fair market value makes use of the market in which the item is **most commonly sold to the public** with the sale being **hypothetical**, i.e., the sale does not, in fact, occur; rather, ownership is retained and title is not transferred.

- **Fair value (for business assets and liabilities)**. Statement of Financial Accounting Standards 157 provides guidance about how entities should determine fair value estimations for financial reporting purposes. SFAS 157, which broadly applies to measuring fair value of corporate financial as well as nonfinancial assets and liabilities, defines fair value as:

  > *"the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date."*

- **Orderly liquidation value** is an opinion of the amount, as of a specific date, that would be realized if the property was sold in an orderly fashion in an "orderly liquidation market" (such as an auction or estate sale or on consignment) in which an adequate marketing effort is made and a reasonable exposure time is allowed to properly market the property prior to sale.

- **Marketable cash value** is simply orderly liquidation value minus costs associated with the sale.

- **Net value** is similar to marketable cash value in that it reflects the gross proceeds less the anticipated costs associated with the sale; however, net value also takes into account any liens or other encumbrances on the property in question. Such encumbrances are subtracted from marketable cash value to arrive at net value.

- **Salvage value** is an opinion of the amount of money, as of a specific date, that would be realized from the sale of the whole property or a component of the whole property that is retired from service (perhaps because of obsolescence or damage) and for which refurbishing or repair is neither desired, possible nor economically feasible, i.e., the cost to do so would exceed the item's worth. Salvage value also assumes a market in which typical buyers of salvage participate.

- **Scrap value** is an opinion of the amount of money, as of a specific date, that would be realized from the sale of the property if it were sold for its intrinsically valuable material content and not for a productive use (e.g., the gold content in damaged jewelry). Scrap value assumes a market in which typical buyers of scrap participate.

Non-Market-Value Types: Value Types Resulting from Atypical Conditions

The public's expectation is that an appraisal making use of "market value types" reflects the perspective of the marketplace (i.e., what marketplace participants consider to be normal and typical) and are not colored by atypical conditions such as the objectives or needs of the client or other intended users, or of third-party mandates. Value types that **do** take such atypical **user-perspective** conditions into consideration are not "market value" types. The following value types are examples. They result from conditions that are dependent on and are driven by the user perspective, thus are not market value types. Like all values, each requires its own, unique definition:

- **Replacement value** is a general concept that is primarily applicable to insurance appraisals. Replacement value represents the amount one would have to pay (i.e., the buyer's cost) to replace an item of property (through purchase or construction as the type of property warrants) with a property of like kind, age, condition and quality that would provide the same enjoyment, usefulness, functionality and other rights of ownership as did the insured property. Replacement value is based on replacement cost and typically makes use of the market in which the insured most customarily and conveniently shops and/or a market in which the insured can purchase a replacement item within a reasonable amount of time.

- **Forced liquidation value** for **personal property** is the most likely amount an item would obtain within a market which may or may not be the most appropriate (i.e., most lucrative) market. Because of a sense of immediacy, the seller is under a compulsion to sell for quick cash—often forgoing the consideration of alternative markets in which a more lucrative sale would have been realized had time permitted.

  Forced liquidation value for **business assets** is the typical value realized when assets are sold piecemeal and under duress at public auction after being advertised in a manner considered to be commercially reasonable. Forced liquidation value assumes that the buyer is responsible for all costs of removal and is purchasing the assets "as is, where is" with no warranties or representations as to the condition of the assets being made by the seller.

Value Types Associated with Various Intended Uses of an Appraisal

In order to identify the appraisal problem and to understand the necessary steps to take (i.e., the scope of work to perform) in developing credible assignment results, it is necessary for the appraiser to consider the intended use of the appraisal. The intended use will immediately direct the appraiser in making decisions about the type and definition of value to use and, subsequently, which market to research. But for each intended use, there could be more than one possible type of value that might apply. Which specific value type to use will depend on the assignment conditions involving market expectations, user requirements, and mandated definitions. The

following is a list of typical appraisal report intended uses and their possible associated value type(s).

- Acquiring insurance coverage
  - *Replacement value*
- Insurance or transit damage/loss settlement
  - *Replacement value*
  - *Replacement cost (new) less depreciation (i.e., actual cash value)*
  - *Fair market value (as a substitute for actual cash value in some jurisdictions)*
  - *Salvage value*
  - *Scrap value*
  - *Broad Evidence Rule (all values could be applicable)*
- Federal tax purposes: noncash charitable contribution, estate tax, gift tax, casualty loss
  - *Fair market value*
- Estate planning and distribution of assets among beneficiaries
  - *Fair Market Value*
- Asset based lending (collateral loans)
  - *Orderly liquidation value*
  - *Forced liquidation value*
- Bankruptcy
  - *Fair market value (for individual bankruptcy)*
  - *Orderly and/or forced liquidation value (for business bankruptcy)*
  - *Salvage value*
  - *Scrap value*
- Client sale (liquidation) or acquisition of a property
  - *Market value*
  - *Replacement value*
  - *Marketable cash value*
  - *Orderly liquidation value*
  - *Forced liquidation value*
  - *Salvage value*
  - *Scrap value*
- Divorce, equitable distribution and property transfer
  - *Fair market value*
  - *Marketable cash value*
  - *Net value*
  - *Value-in-use*
  - *Value-in-place*
- Litigation and dispute resolution
  - *Depends on jurisdictional mandates such as to what constitutes "measure of damages" for example:*
    - *Fair market value prior to incident minus fair market value after the incident*
    - *Actual cash value*
    - *Replacement value*
- Corporate financial reporting
  - *Fair value (for business assets and liabilities)*

Reasonable Exposure Time and Marketing Time

One of several conditions implicit in the definition of **market value** is that consideration be given to the "conditions of sale"— one of which is that a **reasonable** amount of time be allowed for the property to be exposed and marketed to the open market.

A subject property, if hypothetically sold, would sell for its **market value** only as a consequence of having been exposed in an open and competitive market for a "reasonable time" prior to the actual sale taking place. (It is assumed that in addition to being exposed to the market that an **adequate marketing effort** would have been made as well.) In other words, the property would have had "reasonable exposure time" without which it theoretically would necessarily sell for **less** than its market value.

Exposure time plays a more significant role in the appraisal process than does **marketing** time. The former must always be considered (and at times an opinion of exposure time must even be developed and stated in the report as per USPAP SR 7-2(c), SR 8-2(a)(vi) and SR 8-2(b)(viii)) while the need for developing an opinion of the marketing time may seldom arise.[113]

USPAP defines *Exposure Time* as:



EXPOSURE TIME: an opinion, based on supporting market data, of the length of time that the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal.[114]

Exposure time occurs prior to the effective date of the appraisal and mirrors the marketing time required to sell the comparable properties (at their market value) that are being used as a basis for the opinion of market value being developed for the subject property.

Reasonable exposure time should answer the question, "How reasonably long would the property have had to be exposed to the market in order for it to sell at its estimated **market value** shown in the report?" An estimate of the **reasonable** exposure time for the subject property is based on the actual times it took (i.e., the **marketing time**) to sell the comparable properties in the past at their **market values**. Opinions of reasonable exposure time can also be based on interviews with market participants such as other buyers and sellers of similar properties.

As you might expect, what one might consider to be a reasonable exposure time will vary according to the type of property, the market conditions, and the expected price range. As examples:

- A reasonable exposure time for a type of property commonly sold at a local auction would be less than the reasonable exposure time for a type of property commonly sold through international auction houses.

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[113] See below discussion of *"Marketing Time."*

[114] Exposure time is a retrospective opinion based on an analysis of past events assuming a competitive and open market.

- Reasonable exposure time will be lengthier within a buyers' market where similar properties are plentiful as opposed to a sellers' market in which properties are scarce.

- Property that is priced at a level which informed market participants feel unreasonably high will require a longer exposure time to sell (if, indeed, it ever does sell) than property participants feel is fairly priced.

Reasonable Exposure Time Examples

Example 1: We'll begin with a real property example. Let's assume that a homeowner puts his house on the market with an asking price of $500K; however, the **market value** of the home (as determined by a real property appraiser) is only $450K. That $450K market value of the subject home is a "reasonable" price for the subject home, and it is based on past sales of comparable homes which the appraiser notes were on the market for an average of 90 days before selling.

This 90-day period, then, is reflective of a **reasonable exposure time** for the **subject** home to sell **if** the home was priced at $450K. Why? Because (based on comparable market data) 90 days is the probable amount of time that the subject home will have to remain on the market before it would sell for its market value of $450K. Like Goldilocks and the Three Bears, exposure time can be long, short or just right. When exposure time is just right and reflects the length of time the property will likely be on the market prior to selling for a reasonable price (i.e., its "market value"), we refer to that amount of time as "reasonable" exposure time.

The appraisal of the subject home, therefore, incorporates and reflects a (reasonable) "exposure time" of 90 days if selling for $450K. In other words, in order to achieve its "market value" of $450K the owner of the property should expect the home to be exposed to the market for a period of 90 days. Had the seller been asking $450K and if the home had features comparable to those other homes in the area on which the appraiser based his market value opinion, the agent would have told the seller, "Make plans to close in 90 days! It probably will not sell within a week, and it probably will sell much sooner than 6 months. Based on market data, in all likelihood, it will sell in about 90 days which is its reasonable exposure time."

Remember, however, that the owner does not want to sell for $450K. He wants an "unreasonable" $500K! In that case, his agent explains that the necessary exposure time (which can now no longer be considered "reasonable" because the seller is asking **more** than market value) to consummate a sale will probably be greater than 90 days, and maybe a lot more than 90 days if many other comparable homes are on the market in the market value range of $450K at the time. Recall that reasonable exposure time is the amount of time for which the property is expected to be on the market before selling for its "market value." If the goal is to sell for more or less than "market value," then the exposure time will be more or less than "reasonable" exposure time.

Example 2: The concept of exposure time is the same for personal property such as a period table having a fair market value of $7K. Assume that a reasonable exposure time that would help ensure a sale for its fair market value of $7K if sold at a reputable auction gallery is 60 days. If the client needs an opinion of the table's **fair market value**, no mention of exposure time need be made in the report by the appraiser since, by definition, FMV is a hypothetical value for a hypothetical sale that **assumes** a reasonable exposure time. So, no opinion of exposure time needs to be developed (SR 7-2(c)) or disclosed (SRs 8-2(a)(vi) and 8-2(b)(viii)) for this assignment.

Having said that, the appraiser can (and should) put whatever information into the report that he feels necessary to make the report understandable, so he can opine as to exposure time if he feels it necessary, or if he feels that doing so would help make the report more understandable. For instance, when offering an opinion of the orderly liquidation value of a 19th century chair, you may wish to note that your market value opinion of $1,500 assumes a reasonable exposure time of 30 days which, in your opinion, is the marketing time commonly needed to sell similar items at their market values in an orderly liquidation venue such as by means of a local auction or a well-advertised estate sale.

Example 3: Lenders contemplating a collateral-based machinery and equipment loan in a market where liquidations require a long six or nine-month exposure time may decide to adjust their underwriting requirements (e.g., allow only a reduced loan amount or charge a higher interest rate) in the face of the possibility of the lengthy time frame associated with getting their money back should the collateral need to be liquidated. Optionally, the lender might not fund the loan request at all due to the difficulty in liquidating the asset (if it became necessary to do so) or because of the high risk of not being able to recover the lender's invested capital for whatever reason.

Example 4: A client requests a market value appraisal for a sales advisory purpose. A careless appraiser fails to properly identify the appraisal problem and, consequently, mistakenly researches the retail market (instead of the orderly liquidation market). In doing so, the appraiser determines the value at the retail store market level and reports back to the client. The client subsequently hires an estate sale agent to sell the property and presents the agent with the appraisal and the expectation that the agent will achieve the appraised retail values. The agent, who was contracted to conduct an **orderly liquidation**, quickly realizes that the property will not achieve the **retail value** reflected in the appraisal (as the client is expecting it will!) within the relatively short exposure time available to conduct the estate sale. In the retail market, it typically requires months (and sometimes years in the antiques business) to achieve a sale at the retail price level. The stated retail values in the appraisal report will not likely be achieved within the few days available for an estate sale, even at an estate sale that is well-advertised. A consideration and discussion of reasonable exposure time would clarify these related issues that are relevant to the two conflicting intended uses. Proper discussion of exposure time in the appraiser's report would have helped eliminate confusion and would have prevented unrealistic expectations of the probable selling price.[115]

Developing an Opinion of Exposure Time

USPAP SR 7-2(c) requires the **development** of an opinion of reasonable exposure time **if** reasonable exposure time is a component of the definition of the type of value being developed:

> *Comment: When reasonable exposure time is a component of the definition for the value opinion being developed, the appraiser must also develop an opinion of reasonable exposure time linked to that value opinion.*

And USPAP SRs 8-2(a)(vi) and 8-2(b)(viii) require that the opinion of reasonable exposure time be stated in the report **if** it is required to be developed by the above USPAP SR 7-2(c) in the first place:

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[115] Adapted with permission from *Launching Your Appraisal with USPAP,* Novotny, 2007.

> *When an opinion of reasonable exposure time has been developed in compliance with Standards Rule 7-2(c), the opinion must be stated in the report.*

Disclosure of Reasonable Exposure Time

As noted, while it is not always necessary for the appraiser to disclose his or her opinion of exposure time in the report, it is probably good practice to do so if it would help clarify the appraisal results and make the report more understandable.

For an assignment in which an opinion of reasonable exposure time was a component of the value definition, the appraisal report might contain the following statement:

> *All comparable sales used in this report as a basis for my opinion of orderly liquidation value were assumed to have been exposed to their relevant markets for a period of thirty days.*

Here is another example but this time for which an assignment requiring an opinion of forced liquidation value in which a condition of the assignment is that the sale will have a less-than-reasonable exposure time because the sale is under duress. In such a scenario, the appraiser might state:

> *All comparable sales used in this report as a basis for my opinion of value were assumed to have been exposed to their relevant markets for only seven days prior to sale and that minimal marketing efforts were undertaken to affect said sales.*

Another example would be the above-mentioned chair. If the client needs an opinion of the table's **forced liquidation value** for a sale that must be consummated within 14 days (which is much less that the optimum time required to realize a sale at its market value of $7K), then the appraiser should develop and disclose an opinion of exposure time since a reduced exposure time is, indeed, a component of the definition of "forced liquidation value" and such disclosure would help to "*...clearly indicate to the intended users how the definition is being applied."* The appraiser might state in the report something to the effect:

> *Based on your stated need to liquidate the subject property within 14 days (which is less than a reasonable exposure time of 60 days required to achieve market value), in my opinion the table has a forced liquidation value of $3,200.*

By the way, though it might not be required, the appraisal report might contain the following generalized statement if such a disclosure would make the report more understandable:

> *All comparable sales used in this report as a basis for my opinion of value were assumed to have been exposed to their relevant markets for a sufficient length of time prior to sale and that adequate marketing efforts were undertaken to affect said sales.*

Supplemental reading:

- USPAP Advisory Opinion 35 *Reasonable Exposure Time in Real and Personal Property Opinions of Value*

Marketing Time

USPAP's Advisory Opinion 7 *Marketing Time Opinions* defines "reasonable" **marketing** time as:

> *An opinion of the amount of time it might take to sell a real or personal property interest at the concluded market value or at a benchmark price during the period immediately after the effective date of an appraisal*.

Marketing time occurs **after** the effective date of the appraisal, and is the anticipated time required to "get the word out" to an adequately large number of prospective purchasers, to allow appropriate time for advertising and inspection, for conducting a negotiated or an auction sale, for the exercise of due diligence, and, in general, for the consummation of a sale at the property's market value or some other stipulated price point. An opinion of marketing time might be stated: "It will take 30 days to sell your antique table for its market value which, in my opinion, is $1,500."

The above-mentioned house seller might ask, "OK, market value of my home is $450K and if I wanted $450K I understand it will probably take 90 days to market and sell my home, but I want $500K. How long will I have to market this property in order to sell for a "benchmark" of $500K?" The appraiser might reply, "While a reasonable marketing time to sell for market value of $450K is 90 days, I estimate that the marketing time required to sell for $500K might be as long as five to six months."

An opinion of marketing time is **not** required by USPAP. Since marketing time occurs **after** the effective date of the appraisal's value opinion, a marketing time opinion it is not part of the appraisal process, though it is related to it. Accordingly, should an assignment require an opinion of marketing time, it would be appropriate for that opinion of marketing time to appear towards the end of the appraisal report.

Requests for the appraiser to provide an opinion of marketing time originate from the client. Should that occur, it is important for the appraiser to discuss the relationship a particular asking price has on anticipated marketing time. Different potential asking prices will each have their own associated marketing time. Such options may result in the appraiser generating a multi-market, multi-value appraisal.[116]

Supplemental reading:

- USPAP Advisory Opinion 7 *Marketing Time Opinions*

Fair Market Value

Fair market value is often confused with market value. The stumbling block is normally in regards to the issue of title transfer. While a **market value** appraisal assumes the transfer of sold property to the new owner as of a specified date, **fair market value** assumes that the item is **not sold**, but rather that ownership is retained. Fair market value is used, as an example, by the IRS to

[116] See the Chapter 4 section entitled *Multi-Market, Multi-Value Appraisals* for a related discussion.

substantiate tax deductions for noncash charitable contributions, or as a basis on which to levy estate taxes on property in the decedent's estate that is bequeathed and **not sold**.

Fair market value is defined by a legal or regulatory jurisdiction and may vary with individual jurisdictions, i.e., from state to state.

Definition of Fair Market Value

Treasury Regulation §1.170A-1(c)(2)[117] defines FMV for noncash charitable contribution purposes as:

> *The fair market value is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts. If the contribution is made in property of a type which the taxpayer sells in the course of his business, the fair market value is the price which the taxpayer would have received if he had sold the contributed property in the usual market in which he customarily sells, at the time and place of the contribution and, in the case of a contribution of goods in quantity, in the quantity contributed. The usual market of a manufacturer or other producer consists of the wholesalers or other distributors to or through whom he customarily sells, but if he sells only at retail the usual market consists of his retail customers.*

The below Treasury Estate Tax Regulation supplements the above definition by emphasizing the **prohibition of using forced sales prices** as comparable market date, nor should comparable prices be used other than those from the market in which the property is **most commonly** sold to the public. Estate Tax Regulation §20.2031-1(b)[118] defines FMV as:

> *The fair market value is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts. The fair market value of a particular item of property includible in the decedent's gross estate is not to be determined by a forced sale price. Nor is the fair market value of an item of property to be determined by the sale price of the item in a market other than that in which such item is most commonly sold to the **public**, taking into account the location of the item wherever appropriate. Thus, in the case of an item of property includible in the decedent's gross estate, which is generally obtained by the public in the retail market, the fair market value of such an item of property is the price at which the item or a comparable item would be sold at retail. For example, the fair market value of an automobile (an article generally obtained by the public in the retail market) includible in the decedent's gross estate is the price for which an automobile of the same or approximately the same description, make, model, age, condition, etc., could be purchased by a member of the general public and not the price for which the particular automobile of the decedent would be purchased by a dealer in used automobiles. [emphasis added]*[119], [120], [121]

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[117] See Appendix EE *Treasury Regulation §1.170A-1(c).*
[118] See Appendix Q *Tax Regulation §20.2031 and other Federal Estate Tax Issues.*
[119] The reason I added the emphasis is to point out that the term "public" has been interpreted by the Tax Court as meaning the most "customary purchasers."

For the purposes of this book, we will make use of a minimalized fair market value as defined by IRS Regulation §1.170A-1(c)(2) and as expanded on by the Treasury Regulation state §20.2031-1(b):

> *The definition of Fair Market Value is set forth in Treasury Regulation §1.170A-1(c)(2) which states that the Fair Market Value is "The price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts." Estate Tax Regulation §20.2031-1(b) expands the definition by stating "...nor is the fair market value of an item of property to be determined by the sale price of the item in a market other than that in which such item is most commonly sold to the public, taking into account the location of the item wherever appropriate."*

Fair market value was originally devised by the federal government as a method by which to form a basis for the taxation of property (within a decedent's gross estate) which was **not sold** upon the taxpayer's death, such as property bequeathed to heirs. Decedent's property that **is sold** can be taxed based on proceeds generated from the sale, but in order to form a basis on which to tax property that was **not sold**, it was necessary to define and assign **fair market value** to such unsold properties.

Fair market value of the subject property is based on what the appraiser concludes that property's probable sales price would be if the property were to be **hypothetically** sold between hypothetical parties. (The appraiser bases this value opinion on past sales of comparable properties from within the "appropriate market.") In other words, the subject property is assumed to have actually not been sold, rather, it is assumed (at least as of the effective date of the appraisal for purposes of the analysis) that title is **retained**. Title will eventually transfer (e.g., to the heirs, giftee or donee), but for purposes of the assignment, title is assumed to have been retained.

An **actual** sale price would be the best evidence of value, but often the subject property is not sold, such as that property that is bequeathed, gifted or donated. If the subject property is not sold, the appraiser must make a reasonable estimate of what the hypothetical **gross** sale price would be if the subject property were to be sold. (The gross sale price does not subtract for expenses normally associated with an actual sale such as auctioneer's commissions, transportation, advertisement, color catalog photographs, insurance, etc.) Generally, the hypothetical sale is considered to be a sale for **cash**, as opposed to a financed sale, or an exchange for some other property.[122]

All federal tax liability uses for appraisals (such as estate tax, gift tax, noncash charitable contributions, casualty loss) **require the assignment of fair market value**. In Anselmo v. Commissioner the Tax Court, in applying this definition of fair market value in a noncash charitable contribution case, held that there should be no distinction between the measure of fair market value for estate and gift tax purposes and noncash charitable contributions under the

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[120] For more on this issue, see the Chapter 13 section entitled *Tax Court Cases: Most Appropriate Market/Anselmo v. Commissioner.*

[121] This is my first mention of the "Tax Court." Tax Court refers to the United States Tax Court—a court established by the Constitution to resolve disputes relating to alleged tax deficiencies. For more about the United States Tax Court, visit UStaxcourt.gov.

[122] The below section of this Chapter entitled *Fair Market Value is a Hypothetical Value: A Case Study* will explore this issue further.

income tax law. In other words, whenever doing an appraisal for federal purposes, make use of fair market value and no other type of value.

To substantiate a determination of fair market value, the appraiser must base such an opinion on past comparable sales which exhibit the market characteristics as stipulated in the above definition of fair market value.

But if …

- Those comparable sales are **not** between a willing buyer and a willing seller, or
- If buyer or seller are **under compulsion to act**, or
- If buyer or seller are **not** reasonably knowledgeable of relevant facts, or
- If the comparable sale was **not** "to the public" (i.e., at retail to the end consumer), or
- If the comparable sale was **not** in terms of cash or cash equivalent, or
- If the comparable sales being considered did **not** occur within the "**most common market**"

… then those comparable sales must be excluded from the appraiser's analysis as they do not conform to the required definition of fair market value. Let's look at these requirements of fair market value in greater detail.[123]

Willing Buyer and Willing Seller

The concept of "willing buyer and willing seller" is a state of mind which considers a hypothetical sales scenario in which someone **wants** to buy the item and someone **wants** to sell the item. This is of critical importance. If buyer or seller were not willing, either there would not be a sale in the first place, or the sale that did occur would not be representative of a fair market value.

For instance, I am not an acceptable "willing seller" if I have an oak sideboard that I do not want to sell. Instead, I want to keep it for my own use, but I might be enticed to sell if offered enough money! If I were to sell it, I would ask an astronomical amount for it.[124] Otherwise, I would keep it. If that astronomical price was paid, it would be a marketplace anomaly and would not be indicative of fair market value. Such comparable sales found to have been conducted with an unwilling buyer or unwilling seller must be discarded and not used as a basis for determining fair market value.

Similarly, one may be willing to sell in an orderly sale scenario where the highest price would be realized but not be willing to sell in a forced sale scenario where the sale price would be less.

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[123] For a related discussion, see the Chapter 5 section entitled *Use of Post-Effective Date Information in a Retrospective Appraisal*.
[124] See the Chapter 5 creators of value section entitled *Endowment Effect.*

Neither Buyer nor Seller under Compulsion

The difference between "willing buyer and willing seller" and "neither being under compulsion to buy or sell" is purely one of degree. A sale under which one party or the other is being compelled to act would not be representative of a fair market value so could not be used as a comparable sale.

- If the buyer is forced to buy (such as might be the case of a buyer having an immediate need for an item), the price paid could be artificially high. As such, it would be an anomaly and would not be representative of fair market value. Such sales must be discarded and not used in the appraiser's analysis.

- Conversely, it would be considered a **compulsion** to sell if I was under bankruptcy court order to liquidate certain property in order to satisfy creditors by a certain deadline. In such a case, the property would necessarily be sold within a short amount of time and with little exposure to or marketing within the most appropriate marketplace. Consequently, it might be sold for merely pennies on the dollar. This, too, would be an anomaly and it would not be indicative of fair market value either.

Reasonable Knowledge

Fair market value also assumes that both buyer and seller have a reasonable knowledge of all the relevant facts regarding the subject property. It should also be assumed that buyer and seller are **equally** knowledgeable of those facts so that both parties have similar bargaining power. Without reasonable and equal knowledge, one side has the advantage over the other, so the sale would not be representative of **fair** market value.

Example: A buyer is accurately informed of the fact that the property for sale is genuine, while the seller is under the mistaken impression that it is a later, albeit high-quality, reproduction. The property will probably sell for a much lower price than its true worth due to the seller's lack of knowledge regarding the property's authenticity. Such a sale should not be used by the appraiser to support his or her opinion of fair market value because the buyer and seller were not reasonably and equally knowledgeable.

Sale is to the Public

IRS Estate Tax Regulation §20.2031-1(b)[125] states:

> *...nor is the fair market value of an item of property to be determined by the sale price of the item in a market other than that in which such item is most commonly sold* ***to the public****...*

"Public" refers to the end user, the end consumer—not to a wholesaler who is one who buys with the intent of reselling. A sale "...to the public..." refers to a retail customer who is the ultimate consumer of the property—at least of the property while in its current form. The "public" for an antique clock is the collector who intends on keeping and not reselling the item. A dealer is not considered to be the "public" since a dealer typically buys for resale.

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[125] See Appendix Q *Tax Regulation §20.2031 and other Federal Estate Tax Issues.*

Here are some additional examples of the appropriate end consumer, i.e., "the public":

- The ultimate consumer for a wrecked car is a salvage yard. The salvage yard does not intend to resell the item "in its current form." Instead, the salvage yard intends to disassemble the car and then sell the salvaged parts and/or scrap.

- The ultimate consumer for a costume once worn by Marilyn Monroe is the collector of Hollywood memorabilia, and not a costume store.

- The ultimate consumer for a large collection of used, out-of-date medical books is a book dealer who (while not intending to resell the large collection as a single lot) disassembles the collection and sells the books piecemeal.

- At issue in Anselmo v. Commissioner was the valuation of a large quantity of loose, low-quality, un-mounted gemstones. The taxpayer claimed a deduction based on the value of loose gemstones as if they had been set into jewelry and sold in jewelry stores individually at retail. In objecting, the Tax Court ruled that the ultimate consumer of a large quantity of loose, low-quality gemstones would be jewelry manufacturers, who would pay considerably less for the loose gems than what the gems would sell for having been mounted and sold through jewelry stores.

Most Common Market

To be indicative of fair market value, the comparable sale the appraiser wishes to make use of as a basis for fair market value must have taken place "somewhere," and that somewhere is defined by the above Treasury Regulation as the marketplace in which **that type of item is most commonly sold to the public**.

Estate Tax Regulation §20.2031-1(b) states:

> *...nor is the fair market value of an item of property to be determined by the sale price of the item in a market other than that in which such item is **most commonly sold** to the public...*

It is the appraiser's responsibility to determine the most common market for each item being appraised. For used clothing and household goods the most common market might be a yard sale, local estate auction, an online auction such as ebay.com, or online communities featuring free classified advertisements such as craigslist.com. For a fine work of art, the most common market might be a regional, national or an international auction house.

The most common market could also be a retail gallery. For instance, assume that collectors most often obtain American folk-art paintings by a noted Southern African American artist not through auction but most frequently through specialized art galleries in the South. That retail market, then, is the most common market, and gallery sales of comparable properties can be used as a basis for determining the fair market value for similar properties. In addition, certain living artists sell their works only through a designated gallery. These specific retail markets would be the most common market for the artist and so should be used.

As a related example, with some types of property where the issue of genuineness is of paramount concern (for example with pre-Columbian art) purchases from galleries which offer connoisseurship, firm guarantees of authenticity, return policies and good title may be the most common market as opposed to auctions which might not offer such advantages.

It should be noted that the above discussion of most common market addresses the typical client/taxpayer who is an individual who has access to the retail market. A distinction should be made between such a typical client/taxpayer and a client who is, instead, a manufacturer or producer. As noted earlier, for the latter class of clients (unless selling directly to retail customers) their "most common market" consists of the wholesalers or other distributors to or through whom they most customarily sell.

Fair Market Value is a Hypothetical Value: A Case Study

Fair market value is a **hypothetical value** in that it assumes that title **does not transfer from the hypothetical seller** to the **hypothetical buyer**, but rather that the property and any rights inherent to ownership (i.e., the bundle of rights) are retained by the owner, and that those rights and benefits of ownership will continue.

Fair market value is rooted in the federal estate tax concepts—contents of an estate which **are sold** during the closing of an estate are taxed at the amount netted by the estate. (The IRS considers the sale price of property as good and sufficient proof of fair market value.) But estate property which is **left unsold** (for instance property that is bequeathed) is taxed not on what it might have **netted** if sold, but rather on what **would have been paid** by a buyer if the property had been (hypothetically speaking) sold.

It is for these reasons that fair market value is called a **hypothetical** concept. It is hypothetical in the sense that the **unsold** estate property is being valued as though it **had been sold**, but, in actuality, **neither** the rights of ownership and **nor** title **were transferred**.

Since the property is assumed to be **retained**, there would be no expenses associated with a sale; therefore, fair market value is, in effect, the **gross** proceeds (not the **net** proceeds) that one would expect to be realized **if** the item had been sold at its market value.

In other words, fair market value is a measure of the amount which would be **obtained** (e.g., an auction hammer price plus buyer's premium) and not the amount that would be **retained** (e.g., selling price less sales commissions and other expenses).

In their Technical Advice Memorandum (Priv. Ltr. Rul. 9235005) based on Publicker v. Commissioner the IRS ruled that a buyer's premium paid at auction is a component of the purchase price and, as such, is additive to the sale price when calculating fair market value. This ruling may have little effect on some estates, since under certain circumstances the buyer's premium may be deductible as an administration expense. Those "circumstances" generally revolve around whether or not the sale was made out of necessity in order to pay estate taxes or just for convenience in order to facilitate the division of property among heirs. Regardless, it is a topic best explained by an experienced accountant or estate lawyer.

Consider a fine painting in the decedent's estate which will be inherited by a descendent. The painting must be valued for estate taxation purposes at fair market value because it is **not** going to be sold. Rather, it has been bequeathed to a beneficiary. An appraiser is retained to develop an

opinion of the painting's fair market value. To determine **fair market value** of this unsold subject property, the appraiser conducts market research to locate past sales of comparable properties on which to base an opinion of value.

The appraiser locates two comparable paintings which recently sold at a regional auction which the appraiser deems to be the **most common market** in which such items are sold to collectors (i.e., the end consumer). One painting sold for $12,000 while the second sold for $15,500. Basing an opinion of value on an analysis of both comparable sales, the appraiser averages the selling prices and comes to the opinion that, if sold, the subject painting would sell for $13,750.

$13,750 represents the amount for which the subject painting would most probably sell at a regional auction, **if** it were offered for sale. Granted, the comparable properties netted their consignors considerably less than the auction hammer price when considering the expenses associated with the sale (not the least of which was the auctioneer's commission). But fair market value does not allow for consideration of those expenses, rather it considers only the potential selling price to the **exclusion** of any potential expenses, i.e., it considers the amount that would be **obtained** (the gross) as opposed to the amount that would be **retained** (the net).

Here is a comparison of the amount that would be **retained** by the seller following an actual sale of a $13,750 painting to the amount that would be **obtained** if it were **hypothetically** sold—absent expenses but including the buyer's premium (when charged):

1. Amount retained if actually sold:

Hammer price:	$13,750
Insurance:	-$100
Shipping:	-$250
Photography:	-$400
10% Selling Commission:	-$1,375
Amount **retained** by seller:	$11,625

2. Amount obtained if hypothetically sold:

Hypothetical hammer price:	$13,750
10% Buyer's Premium:	+$1,375
Hypothetical amount **obtained**:	$15,125 (fair market value)

In the above example, the painting's fair market value would not be $11,625 (the amount **retained** by the seller) but rather $15,125 (the hypothetical amount **obtained**).

Fair Value (for Business Assets and Liabilities)

This discussion of fair value is necessitated by global changes in the world of financial accounting that are underway as of this writing. Personal property appraisers in the U.S. will seldom encounter the need for the development of an opinion of fair value other than if involved in a business-related "team" appraisal assignment which is usually headed up by the business valuator and often includes appraisers for personal property, real property as well as the business itself. In such cases, the members of the valuation team need to be in constant contact with each

other since facts known by one member may impact all values. On the international scene, the personal property appraiser may be called upon by corporations (who do not recognize "fair" market value) to develop an opinion of fair value for other than financial reporting purposes. **Fair value** is a significant value type used in the world of financial reporting, i.e., in the disclosure of financial information between those who prepare financial statements (the company management) and auditors, investors, lenders, federal regulators, and parties to commercial transactions such as corporate mergers, acquisitions, and sales and purchases in which assets and liabilities are bought, sold, transferred and assumed.

The measurement of "fair value" by valuation specialists can serve as a primary basis for financial statement assertions being made by management (such as when buying, selling and transferring corporate assets and liabilities). As a result, auditors, regulators, stakeholders and parties to commercial transactions have a keen interest in fair value

Statement of Financial Accounting Standards 157 provides guidance about how entities should determine fair value estimations for financial reporting purposes. SFAS 157 broadly applies to measuring fair value of corporate financial as well as nonfinancial assets and liabilities. It defines fair value as:

> *"the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date."*

This Statement requires consideration of the price received when selling an asset or paid when transferring a liability in a hypothetical arm's-length transaction in an orderly market with adequate exposure time (i.e., not a forced liquidation or sold under duress). If more than one market is available, SFAS 157 requires the use of the "most advantageous market," i.e., the market which would maximize the amount received if selling an asset or, conversely, which would minimize the amount that would have to be paid in order to be relieved of a liability.

Fair value can take into account such objective factors as the cost to manufacture, the cost to replace with an exact or similar substitute, or the impact on value of supply and demand. It can also take into consideration such subjective factors as perceived utility, i.e., value-to-owner.

As an example of where fair value is an issue, consider company A which owns a Rodin sculpture which it purchased eight years ago at a cost of $1M, and company B which recently purchased another Rodin sculpture from the same edition for $5M. Company A reports the sculpture on its balance sheet at its historical cost of $1M while company B reports essentially an identical property as an asset of $5M on its balance sheet. The use of historical costs fails to take into consideration the fact that the two items are, essentially, identical properties. Having numerous assets and liabilities listed on the books at historical cost could lead to a balance sheet that may be greatly undervalued. If, however, both companies made use of fair value accounting, then both would report an asset worth $5M. Making use of fair value accounting provides stakeholders with the information they are seeking, i.e., the current value of assets and liabilities and not their historical cost.

While clearly a "type" of market value, fair value and market value are not synonymous. Fair value, for instance, requires the assessment of the price that is fair between two specific parties taking into account the respective advantages or disadvantages that each of the specific parties will gain from the transaction. It might be that the traditional definition of market value could meet these criteria, but such is not necessarily the case. Unlike market value, fair value takes into consideration particular synergies between the two specified parties. The existence of such

synergistic value might mean that the price that is fair between them is higher than the price that might be obtainable in the wider market. In other words, a "special value" may be recognized when analyzing fair value. This is as opposed to market value which requires that factors such as special value be disregarded.

The International Valuation Standards Council (IVSC) recognizes this synergistic effect in its definition of fair value:

> *i. The estimated price for the transfer of an asset or liability between identified knowledgeable and willing parties that reflects the respective interests of those parties. For use in financial reporting under* International Financial Reporting Standards [IFRS]*, fair value has a different meaning:*
>
> *ii. In IFRS 13 "Fair Value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date."*

Fair Value and the Personal Property Appraiser

Personal property appraisers may encounter the need to develop an opinion of "fair value" of **corporate personal property** when called upon to do so by company management preparing annual reports, by an outside CPA performing a company audit, or by a business valuator tasked with appraising a business enterprise which includes personal property. This need to develop an opinion of fair value will most often occur in assignments involving purchase price allocation where a company being acquired owns an art collection or other types of business personal property which require the development of fair value (i.e., a "restatement" of value) for financial reporting purposes.

The type of business personal property the appraiser encounters might be fine art, but it could also be office furnishings ranging from expensive vintage furniture and antique Oriental rugs to everyday desks, chairs and computers.

Normally, the personal property appraiser is not the person managing the overall valuation contract (the manager will most likely be the business valuator), so your opportunity to acquire related business rests with making your services known to appraisers of business enterprises and intangible assets. Secondary potential clients include company CPAs. Appraisals give CPAs a higher comfort level when reviewing the company management's financial report submissions that they receive when doing a company audit.

In summary, we are still struggling to get a true understanding of how to best develop an opinion of fair value for personal properly such as art and antiques. While machinery and equipment appraisers have been working with fair value in the realm of financial reporting for many years and have had the benefit of having their appraisals reviewed by business valuators and auditors, such cannot be said for the personal property appraiser within the other disciplines. The fair value standards were written primarily from the business valuation viewpoint. Those standards as they apply to all personal property appraisers are still evolving.

Marketable Cash Value

When a client desires to sell a property, an appraiser might be asked to develop an opinion of marketable cash value which is **the amount which is netted upon sale**, i.e., it equates to the **gross proceeds minus expenses**. Expenses associated with a sale might include a selling commission such as that charged by an auctioneer, the cost of advertising, transportation, insurance, or photography (the latter only for articles appearing within an auction catalog).

Marketable cash value assumes that the sale takes place within the most lucrative marketplace, and that the sale is orderly and not forced, i.e., adequate exposure time is allowed for advertising, inspection, sale and removal.

An appraisal to develop an opinion of marketable cash value anticipates the net proceeds for cash-in-hand that would be yielded from an orderly sale of a property after all costs involved in selling the property are subtracted (i.e., the estimated net amount that would be received by the seller). Marketable cash value appraisals are frequently applied to intended uses involving collateral loans or equitable distribution in which case property stands to be exchanged for cash or other financial instruments.

Net Value

Often used in divorce proceedings, the term net value refers to the amount of money that would be retained if a property was sold **and** after satisfying any liens against the sold property.

Net value is similar to marketable cash value in that it reflects the gross proceeds less the anticipated costs associated with the sale; however, net value also takes into account any liens or other encumbrances on the property in question. Such encumbrances are subtracted from marketable cash value to arrive at net value.

As an example, if the anticipated gross proceeds from selling the contents of a home are $50,000 and the expected costs equate to $15,000, the marketable cash value of the estate would be $35,000; however, if there is a lien of $10,000 on a vehicle that is among the property to be sold, then the net value of the estate contents would be only $25,000.

Liquidation Value

Liquidation value is a term most often used in the context of a sale of the assets of a failed business that is being sold in order to satisfy creditors, but the term pertains to the liquidation of an individual's personal property as well.

For business assets, various types of liquidation value are defined based on whether or not the business is to continue as a going concern and whether or not the liquidation is under duress.

As opposed to business assets, for an individual's personal property liquidation value represents the amount of money that would be obtained when converting **any** property to cash for any purpose **within a defined time period** where there is a possibility that the seller is under **duress** to act.

For either an individual's or a business's assets there are two types of liquidation value to consider: **orderly** liquidation value and **forced** liquidation value. While personal property appraisers are frequently called upon to determine liquidation value for an individual's personal property, it is business valuators and/or machinery & equipment appraisers who are normally called upon to determine liquidation values for business assets.

Orderly Liquidation Value

- **Individual's Personal Property**

  Orderly liquidation value. For an individual's personal property, orderly liquidation is the most probable price for which an item would change hands if sold in the appropriate market (i.e., most lucrative market) in an orderly and properly advertised manner (either through a negotiated sale or through an auction), and allowing a reasonable amount of time in which to complete the transaction. It is assumed that sales occur within an open retail market in which buyers and sellers are knowledgeable and willing participants, are typically motivated, and are not under duress to act.

- **Business Assets—Defunct Businesses**

  Orderly liquidation value. For assets of a defunct business, orderly liquidation value is the price realized when assets of the **defunct** business are sold piecemeal, **through negotiation**, over a predetermined period of time (often three to six months). Orderly liquidation value assumes that the buyer is responsible for all removal costs and is purchasing the assets "as is, where is" with no warrantees or representations as to the condition of the assets being made by the seller. It is further assumed that the assets are properly advertised in a manner considered to be commercially reasonable. Buyer and seller further acknowledge that if an acceptable price cannot be negotiated within the time period specified, the final option for the seller would be to offer the assets for sale piecemeal at public auction.

- **Business Assets—Going Concerns**

  For a business that will be continuing in operation (i.e., a going concern) there are two possible types of orderly liquidation value—**market value-in-place** (a.k.a. going concern value-in-place) and **orderly liquidation value-in-place**. Each takes into consideration the positive contribution the assets are making and will continue to make to the success of the business. Which to consider is dependent upon whether or not the sale is under compulsion. If neither party is under compulsion to act, market value-in-place is applicable. If the seller is under compulsion to sell, orderly liquidation value-in-place is appropriate:

  - **Market Value-in-Place**

    Market value-in-place is the price at which business assets would change hands between a willing and able buyer and seller, with **neither under compulsion** to act, and with both having full knowledge of the relevant facts. The assets being purchased are to remain in place and in operation

in the manner for which they were originally intended with the seller accurately and completely representing the existing condition and operability of the assets to the buyer.

- **Orderly Liquidation Value-in-Place**

  Orderly liquidation value-in-place is the price that a knowledgeable buyer would pay a knowledgeable seller **who is under duress**, for business assets being purchased in place to remain in operation in "as is" condition in the manner for which they were originally intended. Orderly liquidation value-in-place assumes an adequate period of time to properly advertise the assets in a manner that is commercially reasonable. However, it is clearly understood by both the buyer and seller that the sale of the assets is under duress, and that the marketing time is limited to a predetermined period of time is limited (usually between six and twelve months).

Forced Liquidation Value

- Forced liquidation value for an **individual's personal property** is the most likely amount an item would obtain by a seller who, because of a sense of immediacy, is under compulsion to exchange the property for cash within a market which **may or may not** be the most appropriate market (i.e., the most lucrative market), within a less-than-optimal marketing time, and with a less-than-optimal marketing effort. Forced liquidation assumes a wholesale market in which wholesale purchasers participate.

- For **business assets**, forced liquidation value is normally thought of as the value realized when assets of a defunct business are sold **piecemeal**, under duress **at public auction**. Forced liquidation value assumes that the buyer is responsible for all costs of removal and is purchasing the assets "as is, where is" with no warrantees or representations as to the condition of the assets being made by the seller. It is further assumed that the assets are properly advertised in a manner considered to be commercially reasonable.

Salvage Value

Salvage value is defined as the amount of money that would most likely be obtained from the sale of an obsolete whole item (such as the price a business asset might realize if sold at the end of its useful life), from the sale of a component of a whole property, or of a damaged item for which repair is neither desired, possible nor economically feasible, i.e., the repair cost would exceed the item's worth. Salvage value assumes a market in which typical buyers of salvage participate.

- Consider a piece of machinery that has outlived its usefulness. As a whole, the item has little value, but when offered for sale its salvage value would reflect the worth of its various parts and components which might be reused by the new owner in some other capacity, such as a source for replacement parts.

- When suffering from a casualty loss or transit-related damage, many items of personal property may retain some residual value as salvage despite the property having suffered extensive damage. It may be possible to repair such items, but this is usually done only if

the repair cost would not exceed the item's potential value.

In cases where the repair cost would exceed the item's value, salvage value can be taken into account when negotiating a settlement. Consider a large moving claim which includes a damaged family heirloom. The moving company has the right to take possession of the heirloom if they cash the item out. Perhaps the owner would be willing to retain the property despite it being in damaged condition in exchange for deducting its salvage value from the total settlement amount.

If it is not possible to restore the whole property, it may be possible to reuse components of the property in other ways. For instance, a mahogany 19th century chest of drawers damaged by fire beyond economical repair may contain valuable period brass hardware that could be reused when restoring another piece of furniture. The item's salvage value reflects the value of only those parts of the whole that are considered to retain usefulness.

The term salvage value is also found in accounting. For business purposes, the **book value** of owned or leased business assets is calculated based on the original cost of the assets. Over time, the asset is depreciated to $0 book value over its economic life at which point the property can continue in use, be liquidated, be discarded, or be replaced. Though its book value is now zero, the property continues to have some level of **salvage value**.

When neither salvage value nor usefulness remains (to either the whole property or to its components), consideration should be given as to whether or not the subject property retains any **scrap** value.

Scrap Value

Scrap value reflects the amount of money that would probably be received for the sale of an item of property that is meant to be broken up to obtain intrinsically valuable materials. For instance, vintage jewelry that is beyond economical repair may be broken up to retrieve precious metals as well as precious and/or semi-precious gemstones. Certain electronic components such as computer motherboards contain trace amounts of gold which can be retrieved when motherboards are scrapped.

Replacement Value

Replacement value is a general concept that is primarily applicable to appraisals the purpose of which is to ensure that a property owner is properly indemnified in case of loss. Examples are appraisals for transit- or insurance-related damage or loss claims, for acquiring insurance coverage for high-value antiques, or for litigation appraisals where the "measure of damages" is a type of replacement value. Examples of such litigation might include a claim for incidental personal property damage during a landlord's apartment renovation project, or the wrongful removal or conversion of personal property during an eviction.

Replacement value is defined as the worth of a property based on the amount one would have to pay to replace the property[126] within a reasonable amount of time and from within the **relevant**

[126] Through purchase or construction with a new or comparable item as the type of property warrants.

market with a property of like kind, quality, origin and utility as the property being replaced.[127] The method for determining a property's replacement value is to start by estimating the cost of replacing it, i.e., by estimating its **replacement cost**.[128]

Since one-of-a-kind items typically found scheduled on insurance policies could never be replaced if lost, insurance, in effect, does not insure the replacement of the covered property but, instead, ensures replacement with a substitute property that provides comparable benefits to the owner as did the original. In other words, replacement value is measured by the replacement cost of a **suitable substitute property** which will make the insured whole, i.e., as if the loss or damage had never occurred. Insurance companies (and moving companies in the case of transit-related damages) typically have options such as repair or replacement in lieu of cashing out; however, the intent of insurance is that the insured receive restitution so that even if the property cannot be repaired or replaced, the owner will still receive monetary compensation for the loss to the extent allowed by the insurance contract.

Replacement Value: General Concept

Somewhat like market value, replacement value is a general concept which needs to be refined and defined by prevailing conditions relevant to the assignment such as the intended use of the appraisal, the needs of intended users of the report, and mandated value definitions, if any. In addition, replacement value and the method to determine it will also be defined by the type of property being appraised; specifically, is the property appreciable or depreciable? is it acceptable to replace the subject property with a brand-new property? can a replacement be purchased ready-made or must it be constructed? or will only a comparable antique replacement suffice? Answers to those questions will determine which of the various types of value would be relevant to the assignment. Possibilities include **replacement value (new), replacement value (new-reproduction)** or **replacement value (comparable)**.

Method of Replacement

During the appraisal process, the appraiser develops an opinion of replacement value after making a determination as to the most appropriate method to be used to replace the subject property should that become necessary. Will replacement be done by purchase or must a replacement be constructed new?

- If by **purchase**, will the replacement be with a **new** item or with a **comparable** item? (Not all items can be replaced with a **new** item. Perhaps a flat screen television or a lawn mower can be, but an antique period Tiffany lamp cannot!)

- If by **construction**, will a new **exact replica** be constructed, or will a new suitably **acceptable substitute** be made (i.e., one that is not an exact replica but that is equivalent in usefulness and functionality nonetheless)?

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[127] For the purposes of replacement value, the "relevant market" is understood to be that market in which the owner of the property most customarily and conveniently shops, and one in which a replacement property can be obtained within a reasonable amount of time. Examples of such markets might include local retail stores, dealers, online sources, etc.

[128] See the below section of this Chapter entitled *Types of Cost* for a supplemental discussion regarding this topic, in particular, how applying good judgement to replacement "cost" leads to an opinion of replacement "value."

Definitions of Specific Types of Replacement Value

1. Replacement value (new) is the worth of a property based on the amount necessary for the buyer to obtain (through purchase only) a **new** substitute property that would provide the same usefulness as did the subject property. Note, though, that replacement value (new) pertains only to property types which are capable of being suitably replaced with a brand-new property such as a cell phone or refrigerator. It is never a value type that would be applicable to items which cannot be suitably replaced with a brand-new property such as a vintage oak icebox or an old masters painting. Replacement **value** (new) is based on the substitute property's replacement **cost** (new).

- For items capable of being replaced with a newly-purchased property, **replacement cost (new)** is defined as the total buyer's cost necessary to replace (by purchase) the item with a **new** item of like kind, quality and utility or with a **new** upgraded item. Replacement cost (new) oftentimes applies to depreciable property for which exact or suitably-acceptable new substitutes can be obtained such as common furniture and household goods. As noted, replacement cost (new) considers that items may be upgraded to the latest model or style if the subject property model is no longer being made or has been superseded by a newer version.

2. Replacement value (new-reproduction) is the worth of a property based on the amount necessary to obtain (through construction only) a **new** substitute property (for items capable of being replaced with a **new** item) that would provide the same usefulness as did the subject property. Replacement **value** (new-reproduction) is based on the substitute property's replacement **cost** (new-reproduction).

- For items capable of being replaced with a newly-manufactured property, **replacement cost (new-reproduction/production)**[129] is defined as the total buyer's cost to **reproduce** an exact replica (or **produce** a suitable substitute) using the same materials and construction techniques as the original by a qualified artist or craftsperson. Replacement cost (new-reproduction/production) is used for items which cannot be replaced with a ready-made new item but for which a replacement with a newly-constructed property is possible and acceptable. An example might include the cost to replace a family portrait executed by a living artist, or a custom-made wall unit by a qualified cabinetmaker.

3. Replacement value (comparable), on the other hand, is the worth of a property based on the amount necessary to obtain a **comparable** substitute property that would provide the same usefulness as did the insured property. Replacement **value** (comparable) is based on the substitute property's replacement **cost** (comparable).

- For items **not** capable of being replaced with a brand-new property, **replacement cost (comparable)** is defined as the cost necessary (by purchase only) to replace an item from within the insured's most relevant marketplace (i.e., a marketplace in which the insured most customarily and conveniently shops) and within a reasonable

[129] Technically, new replacements that are being constructed can either be **reproduced** as an exact duplicate (the term replacement value (new-reproduction) would apply) or can be **produced** as a "close enough," suitable substitute (the term replacement value (new-production) would apply). Regardless, the replacement property is a **brand-new** property.

> amount of time with a comparable item of like kind, age, quality, and utility having similar wear and tear, obsolescence, and other characteristics relevant to value and marketability as the subject item. Replacement cost (comparable) applies to property types which cannot be suitably replaced with a brand-new property. Instead, they can only be suitably replaced with comparable items having similar characteristics relevant to value and marketability. Examples of property types for which replacement cost (comparable) typically applies include antiques, collectibles, or works of art by a deceased artist.

Later in the chapter we will discuss in more detail the various types of replacement **costs** which form the basis for replacement **value** including the previously mentioned:

- **Replacement cost (new)** through purchase of a brand-new, ready-made item
- **Replacement cost (new-reproduction/production)** through construction of a:
    - New item by "reproducing" an exact replica, or a
    - New item by "producing" a suitable substitute
- **Replacement cost (comparable)** through purchase of a comparable property

Which of these costs the appraiser chooses to use as a basis for replacement value will depend on several issues and assignment conditions. For instance, whether or not the item is capable of being suitably replaced with a "new" property depends on whether value characteristics of the subject property are capable of being replicated with a newly-purchased or newly-made item.

- Most depreciable items can be replaced by purchasing or constructing a new item. For such items, the appraiser would determine replacement value (new) based on the property's replacement cost (new) or on its replacement cost (new-reproduction/production).
- On the other hand, many appreciable items such as antiques cannot be replaced with a new item. For such items, the appraiser would determine replacement value (comparable) based on the property's replacement cost (comparable).

The method chosen to arrive at the appropriate type of replacement value will dictate the type and definition of replacement value to use and, hence, the appropriate market in which to conduct research.

Estimate of Replacement Cost Not an Appraisal

Note than an estimate of any type of replacement cost (whether new, comparable or reproduction/production) is not an appraisal. Why? Because USPAP defines *Cost* as a fact (or an estimate of a fact) while *Value* is always an opinion that has been developed in accordance with a specific value definition.[130]

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[130] See DEFINITIONS section of USPAP for definitions of *Cost* and *Value*.

Replacement cost may be a major component used in developing an opinion of some types of value such as replacement value (new, comparable, reproduction/production) for personal property and insurable value for real property, but replacement cost is **not** itself a value, thus an estimate or opinion of replacement cost is **not an appraisal**. (2020-2021 USPAP FAQ #367)[131]

Actual Cash Value (ACV)

The term **actual cash value** (also referred to as **depreciated value**) is not easily defined. Some courts have interpreted the term to mean "fair market value." Most courts, however, have upheld the insurance industry's traditional definition: the **cost to replace with a new property of like kind and quality, less all forms of depreciation**, i.e., replacement cost (new) less depreciation.

To complicate matters, in case of disputes, courts in many jurisdictions employ the **Broad Evidence Rule** which considers additional information over and beyond either fair market value or replacement cost (new) less depreciation in order to ensure a fair settlement.[132]

States use various definitions of ACV in order to calculate ACV when a property insurance policy fails to define the term itself. The definitions include the property's fair market value and its replacement cost (new) less depreciation. But most states follow the Broad Evidence Rule that allows the introduction of any evidence and factors that would tend to establish the correct estimate of property value. Tressler LLP, a national law firm headquartered in Chicago, has compiled a state-by-state list of the methods of calculating a loss claim when ACV is not defined by the policy.[133]

Homeowners Policies

Homeowners insurance policies cover losses or damage to buildings and personal property resulting from named perils such as theft, flood, earthquake, fire, etc. In case of loss, insurance companies typically have the option to **repair** or **replace** the damaged/lost property. While buildings and other structures are most often repaired or rebuilt if damaged, personal property is typically neither repaired nor replaced; rather, the insurance company will typically pay the **cash equivalent** to the loss in order to settle the claim. Insurance contracts vary and may refer to this cash equivalent as the **actual cash value**, **agreed value, market value, fair market value, replacement cost** or perhaps **replacement value** of the insured property.

There are different methods by which your insurance company may calculate the amount it will pay you in case of a loss. (Check your insurance contract and speak to your agent to be sure!) If you have a replacement cost endorsement to your homeowner's insurance policy (which most homeowners do), you would receive an amount equal to the cost of purchasing a **new** item of property. Payment based on the replacement cost (new) of damaged or stolen property is usually the most favorable figure from your point of view, because it compensates you for the actual cost of replacing the damaged or stolen property with a new property. If your flat screen television is stolen, a replacement cost policy will reimburse you the full cost of replacing it with a new flat screen television of like kind. The insurance company will not take into consideration the fact that

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[131] See the below Chapter 2 section entitled *Replacement Cost + Judgement = Replacement Value*
[132] Insurance appraisals and the Broad Evidence Rule are discussed in more detail in the Chapter 4 section entitled *Broad Evidence Rule (BER) for Insurance Disputes.*
[133] To view list, go to: https://www.tresslerllp.com/docs/default-source/Publication-Documents/50_state_acv_final_use_update-feb-2016_.pdf (or shortened to https://bit.ly/2XBLUZ8)

the stolen TV was three years old, scratched, and had been used daily since its original purchase date thus causing some amount of wear and tear.

In contrast, if you did not purchase the replacement cost endorsement to your homeowner's policy, you would be paid only the actual cash value of the subject property instead of its replacement cost (new). Under this concept of insurance indemnification, compensation as defined by actual cash value is intended to compensate the insured for the amount of "remaining life" of the damaged or destroyed depreciable property. Insurance companies typically use their own (and often confidential) rates of depreciation to calculate ACV

ACV is the standard that insurance companies arguably prefer when reimbursing policyholders for their losses. Actual cash value is equal to the replacement cost (new) minus all forms of depreciation. It somewhat reflects the dollar amount similar used items of the same age might sell for if sold "as-is." The insurance company determines the amount of depreciation based on a formula that takes into account the property type, its age and life expectancy, and a schedule of annual rates of depreciation. In so doing, they might also use subjective assessments of the pre-loss condition of the subject property based on the insurance adjuster's visual observations of the property or from photographs. In the case of the stolen television, the insurance company would deduct from its replacement cost (new) an amount to account for the subject TV's age and for all the wear and tear it endured prior to the time it was stolen, i.e., for its "depreciation."

On occasion, the observed depreciation might be so significant as to render the subject property worthless, i.e., with an ACV equal to zero. Such might be the case with properties which (prior to the loss) were missing parts, were soiled, had wear and tear which exceeded what was considered "normal," were improperly maintained, were broken/damaged, were not operating condition, etc.[134]

Note that the only difference between replacement cost (new) and actual cash value is a deduction for depreciation. However, both are based on the cost as of the date of loss to replace the damaged property with new property, i.e., on **replacement cost (new)**.[135]

Military Members and DOD Civilian Employees

In 2007 the military's Office of the Judge Advocate General announced the implementation of the Full Replacement Value Act which requires the Department of Defense to provide full-replacement value insurance on every shipment of household goods at no cost to military members or DOD civilian employees. Prior to this act, if a carrier damaged or lost an item, claimants would only be entitled to receive the depreciated value of the item, i.e., its actual cash value. Under the new rules, however, the member files a claim directly with the carrier who is then required to cover all repair or replacement costs.

Service members must file a claim with the carrier within nine months of delivery. If they miss that deadline, they are eligible only for the depreciated value of the items (as in the previous program) for up to two years from delivery.

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[134] See the Chapter 5 section entitled *Depreciation* for a complementary discussion.
[135] For an expanded discussion regarding insurance appraisals see the Chapter 4 section entitled *Appraisals for Acquiring Insurance Coverage.*

If the carrier denies the claim, makes an unacceptable offer, or fails to respond within 30 days, the claimant may transfer the claim to the Military Claims Office (MCO) for assistance in recovery.

If the claimant transfers the claim to the MCO within nine months of delivery, the claims office will be responsible for paying the claimant only depreciated replacement costs (i.e., actual cash value). The claims office will then attempt to recover full replacement value from the carrier. If successful in recovering full replacement value, the claims office will then pay the claimant the difference between the depreciated cost already paid and the full replacement value received from the carrier.

Joint Military/Industry Table of Weights and Depreciation Guide

While most DOD claimants will be compensated at full replacement value, there will continue to be some occasions requiring indemnification for loss at actual cash value—defined as replacement cost (new) less depreciation. To assist in the calculation of actual cash value, the military and the carrier industry jointly developed and have long made use of the *Joint Military/Industry Table of Weights and Depreciation Guide (JMITWDG).* The *JMITWDG* contains a Table of Weights used in claims processing by the military and industry, but not used by appraisers. But the *JMITWDG* also contains depreciation rates for numerous categories of personal property, and it is this section, referred to as the *Joint Military/Industry Depreciation Guide (JMIDG)* that is of interest to the appraiser.

The *JMIDG* is a compilation of rates of depreciation agreed upon by the military and the carrier industry for nearly any category of household goods. The *JMIDG* lists percentage depreciation for the first year in use, for subsequent years, and a maximum depreciation allowed regardless of years in use. Some articles are given a flat depreciation (e.g., dried flower arrangements are depreciated at a flat 25% regardless of age). Here is an excerpt:

ITEM	DEPRECIATION 1ST YEAR %	DEPRECIATION SUBSEQUENT YEARS %	MAXIMUM DEPRECIATION %	FLAT RATE %	NOTES
Desk and Writing Implements	10	10	75		
Drapes	10	10	75		
Drapery (Traverse) Rods	5	5	75		
Drawing, Mapping, Sketching & Professional Equipment	5	5	50		
Electrical Appliances—Minor:					
Blenders	10	10	75		
Can Openers	10	10	75		
Fans	10	10	75		
Frying Pans	10	10	75		
Hair Dryers	10	10	75		

In the case of DOD claims for which depreciated value applies, the *JMITWDG* helps determine the carrier's liability for shipments for which their maximum liability is 60 cents per pound per article unless a higher release value has been declared. Damage claims adjusters first apply the *JMIDG's* annual rates of depreciation to the property. The resulting depreciation is then

subtracted from the replacement cost (new) of the property in order to calculate actual cash value, i.e., the value of the property based on its remaining useful life. The *JMIDG* assumes that the items have been subjected to average care and/or usage. Note that the *JMIDG* **does not** apply to items that appreciate in value such as antiques and collectibles, but rather only to depreciable property.

As an example of an ACV calculation using replacement cost (new) less depreciation, assume that the damaged property is a three-year-old child's wooden highchair that is available new today for $200. The *JMIDG* states that children's furniture depreciates 10% per year the first year, 10% for each subsequent year up to a maximum of 75% deprecation (in other words, regardless of how many years the highchair has been in use, it will always retain a minimum ACV equal to at least 25% of its replacement cost (new), or $50). But the chair is only three years old. After three years in use, the highchair's depreciation amounts to $60 (3 x10% x $200), so the highchair's ACV (replacement cost (new) minus depreciation) is $140 ($200 - $60).

Note that the *Joint Military/Industry Table of Weights and Depreciation Guide* is considered by the military services as well as the carrier industry to be a valid compilation of commonly-accepted item weights and item rates of depreciation for subrogation purposes for depreciable personal property. In that regard, the *JMITWDG* is cited in Code of Federal Regulations 32 C.F.R. (Subpart B — *Demand On Carrier, Contractor, or Insurer*) and 32 C.F.R. Part 751— (*Personnel Claims Regulations*) and is required to be used in conjunction with the *Allowance List-Depreciation Guide* (ALDG) by all branches of the military. (While the *JMITWDG* is used to determine third-party liability (i.e., the amount the military will subrogate against the carrier for damages claimed as being carrier-caused), the ***ALDG*** is used by the military services to determine the maximum payout to claimants.)

To assist in calculating ACV for a large number of items of depreciable personal property, **Maloney's ACV Calculators** (Excel spreadsheets which make use of the depreciation rates contained in the *Joint Military/Industry Depreciation Guide (JMIDG)*) will be helpful. Copies of **Maloney's ACV Calculators** (one .zip file containing three calculators: Basic, Premium and Premium Plus) are available at davidmaloney.com/store/. A copy of the *JMITWDG* can be obtained in PDF format from the same website.

ACV Inappropriate for Appreciable Property

Remember that determining actual cash value by calculating replacement cost (new) less depreciation is an **inappropriate** technique to use for valuing a property which cannot be suitably replaced with a brand-new item.

Moving claims adjusters commonly use the word "antique" to distinguish those items which qualify for exclusion from depreciation, and which instead qualify for compensation at their full market value (to the exclusion of depreciation). But their definition of the word antique is "an item in excess of 100 years of age"—this despite the fact that countless items of property, while less than 100 years old, also appreciate in value rather than depreciate. **Any** such appreciable items, regardless of their age, should also be excluded from the application of depreciation schedules. Moving claims adjusters will consider items less than 100 years of age as having compensable "antique value" only if substantial independent evidence is presented that the item so qualifies. For items which qualify for compensation at their "antique value," claimants will be required to prove that the items possess an inherent value regardless of its purchase price, or its

sentimental or personal attraction. This is typically accomplished with the assistance of a professional appraisal.[136]

Investment Value

Investment value is the value in today's dollars of a monetary return that is anticipated to be realized over a period of time as a result of owning **investment property**. This anticipated monetary return could be in the form of a stream of payments received over time or in the form of a one-time payment received at some point in the future.

Investment property is most often thought of as being **real** property that is purchased with the intent of gaining an "investment" return. Examples of investment property could include an apartment building, a duplex, a single-family dwelling, vacant land, commercial property—basically any type of real estate. The owner usually does not occupy the investment property, but in some cases the owner may occupy a portion of it. Investment property is purchased with the sole intent of realizing an income, either by renting the real property, profiting over time from appreciation, buying low and selling high, or renovating the property and selling it for more than the purchase price. Determining investment value for real property is a complicated topic and is not relevant to this book.

For our purposes, we will focus on **personal property examples** of investment property which, by definition, are acquired or held with the intent of generating income. Most personal property such as a privately-owned 18th century mahogany Philadelphia highboy is **non-investment property**, i.e., it is acquired for private use and not with the anticipation that it will generate income.

But there are other types of personal property that do generate income for its owners in the form of either a stream of monetary returns or in the form of a lump-sum payment resulting from a sale of the property at some point in the future. Examples of the former are the assets of a movie-prop rental company (rented stock generates a stream of income month after month). An example of the latter is an antiques dealer's stock which is sold in the future with the hopes of generating a profit upon sale. Investment property also includes those masters or original works of art from which prints are made and sold by the artist or entity owning the artworks' reproduction rights.

The investment value of these types of personal property can be calculated by first knowing the property's **present worth—**an accounting term which reflects the current amount, in terms of dollars, that would be the equivalent of income generated:

- By the sale of property at some point in the future, or
- By the stream of income generated by leasing property for a specified amount of time, or
- From royalties anticipated to be generated over a period of time by means of licensing rights to the subject property.

It is this **present worth** that forms the basis for **investment value** for investment property. On occasion, appraisers are called upon to calculate the present worth of what was expected to have

[136] See Chapter 4 for an additional discussion of Actual Cash Value and other insurance settlement options including those regarding agreed value policies.

been the future earnings of damaged or lost investment property. Perhaps leased property has been destroyed in a fire. The appraiser may be required to calculate the present worth of the amount that was anticipated to be received based on the terms of the lease agreement had the agreement gone to maturity and not been interrupted by the fire.

Accountants can assist in capitalizing the present worth of an anticipated stream of income. (To "capitalize" means to compute the **present worth** of an anticipated stream of income or of an anticipated future lump-sum payment.) Calculating present worth requires the use of present worth formulae as well as knowledge of:

- The number of periods over which the stream of income will be received,
- The amount of each periodic income, and
- An assumed yield rate.

Without going into all the calculations, as an example, the present worth of an anticipated stream of income of $1,000 per year for five years (assuming a yield rate of 5%) is **$4,329.49**. In other words, receiving **$4,329.49** today is the equivalent of receiving $1,000 per year for the next five years.

Investment value and present worth calculations are associated with the income approach to value—an approach seldom used by the personal property appraiser. It is an approach to value more often used by the accountant and business valuator.[137]

Loss-of-Value

A determination of the loss-of-value (also referred to as **diminution** of fair market value) of damaged personal property is frequently required in order to arrive at a fair and timely settlement of a transit-related or casualty loss damage claim. Yet there is no task more onerous to the appraiser than attempting to assign a loss-of-value to an item of personal property which, having suffered damage, has been professionally repaired. Damage could be transit-related such as might occur during a household goods shipment, or damage could be caused by flood, fire, earthquake breakage, in-home accident, vehicular accident or some similar casualty. In any of these scenarios, the appraiser might be asked to offer an opinion of loss-of-value.

Do not confuse the term "loss-of-value" as is being used here to refer to fair market value that has been lost due to a sudden or specific casualty or transit-related damage with "depreciation" which is a type of "value detractor" that is unavoidable, anticipated and predictable. Depreciation causes personal property to lose value due to normal physical deterioration as well as to all forms of obsolescence. Loss-of-value, on the other hand, is caused by unexpected, accidental damage.[138]

Loss-of-value is an opinion of the amount of fair market value that an item of personal property has lost due to it having been damaged **and** taking into consideration the quality of subsequent repairs or replacements. (A "replacement" is simply a substitution, e.g., original, vintage drawer pulls might require replacement with new pulls if one of the originals is broken and cannot be

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[137] See section entitled *Income Approach* in Chapter 3 for further discussion of investment value.
[138] See the Chapter 5 section entitled *Depreciation: Detractors of Value* for a related discussion.

repaired or economically reproduced; or an old marble dresser top might require replacement with new marble if the original was crushed during a move.)

Loss-of-value reflects the reduced level of marketplace acceptability of the damaged, albeit repaired, item. That is why loss-of-value, technically, reflects a loss of "**fair market**" value. It can be thought of as the amount a seller would have to discount the asking price of a professionally-repaired item in order to induce a sale to a knowledgeable buyer. Mathematically, loss-of-value equals the difference in fair market value **prior** to damage and the fair market value **after** the damage has been repaired.

Note that an accurate loss-of-value determination cannot be made until repairs have been completed. Obviously, a damaged table with a broken leg has suffered some decrease in worth by the mere fact that it can no longer serve its intended purpose. Any remaining fair market value (if any) while the table remains in damaged condition is referred to as **salvage value**.

While the appraiser can offer an opinion of **salvage value** while the property remains in damaged condition, can **loss-of-value** be determined while the property remains in damaged condition? Yes. By making use of the hypothetical condition that repairs had been completed and by making extraordinary assumptions about the quality of those hypothetical repairs, it is possible to provide an opinion of loss-of-value in advance of repairs actually being made. But to form the most accurate opinion of if and to what extent loss-of-value has occurred, one must wait until after the repairs have actually been completed in order to accurately gauge the quality of the repairs and the final condition of the item.

Loss-of-value is subjective and difficult to determine. Whereas replacement cost can be based on well-documented asking prices, and market value can be based on well-documented past sales of comparable items, loss-of-value cannot be determined so precisely. To be able to do so, one would have to find duplicate comparable item being bought and sole which were in the same pre-damage condition, which suffered the same type of damage, which underwent the same degree and quality of repair, and which subsequently had a post-repair appearance identical to the repaired item in question. This possibility simply does not exist in real life, nor are there any formulas or percentages which can be applied to determine loss-of-value.

Considerations when Determining Loss-of-Value

In order to determine loss-of-value, each item must be considered individually in light of the following criteria. Once a loss-of-value has been deemed to have occurred, an estimate of the amount of loss-of-value must be made. The following three criteria must be met before a loss-of-value can even be deemed to have occurred.

- **Criteria 1**: With few exceptions such as automobiles, in order to even be considered for loss-of-value, **the repaired item must be of the type which appreciates in value** such as do most antiques and collectibles.

  Depreciable property (such as sofas, coffee tables, televisions and most other common household items) will not normally suffer any loss-of-value if a competent repair is affected. For instance, a discount furniture store dining table (of which there is no great scarcity) is considered to be depreciable property. If its top is gouged, it will not suffer any loss-of-value if the damage is professionally repaired. An **appearance allowance** or

a **goodwill allowance** might be in order to placate the owner, but no loss-of-value occurs because the repair has restored the item's level of marketplace desirability to its original level. In other words, the marketplace's expectation of an acceptable level of like-new (i.e., pre-damage) condition has been restored; consequently, no loss-of-value has occurred.

- An **appearance allowance** is a type of cash settlement offered when the transit-related damage is not very severe and does not detract from the utility of the object or significantly from its appearance. Usually, repair attempts would not be successful or would be impractical or uneconomical. The owner keeps the item but is compensated with an appearance allowance for the damage incurred. An appearance allowance can also be offered when the repair is considered by the parties involved to be less than perfect.

- **Goodwill allowance** is a term used in the claims industry to describe a cash payment made to the owner which compensates for what the industry considers to be only a perceived loss, damage or inconvenience, but which the owner feels to be a real loss, damage or inconvenience. To placate the owner, the insurance company (or moving company) could authorize an allowance to be paid as a gesture of goodwill simply to settle the claim while at the same time admitting to no liability.

An exception to this criterion is automobiles and other titled motor vehicles. Because of the stigma associated with a vehicle that has been in a wreck (and with services such as CARFAX vehicle histories, these records are well-documented and easily obtained), almost every vehicle that has been involved in a reported accident and subsequently repaired suffers some level of inherent diminished value despite being categorized as depreciable property.

Appreciable property. While a depreciable item will not usually suffer a loss-of-value, most items of appreciable personal property very well might. An early 19th century American Federal mahogany sideboard (classified as appreciating property) having a badly gouged top would suffer loss-of-value despite an excellent repair. This is because in the upper stratosphere of high-valued and rare antiques, any deviations from "original condition" could have a severe impact on desirability among collectors and, consequently, would have a depressing effect on fair market value.

- **Criteria 2**: For there to be a loss-of-value **the damage and its associated repair must be of the type which is unacceptable** to the collector and which, therefore, affects the item's desirability. Many antique toys or pieces of antique ceramics and glass survive in virtually pristine condition; therefore, collectors expect such pieces to be in perfect condition. Any variation caused by damage (despite the quality of repair) diminishes fair market value substantially. An antique Rookwood vase that was broken and repaired will sustain a major loss-of-value.

  On the other hand, because of its hard use, pristine pieces of antique furniture are indeed rare; consequently, old repairs to such pieces are commonplace. For the collector, minor new repairs expertly made usually cause little or no loss-of-value. Major repairs, though, could cause a significant loss-of-value. A repaired scratch on a 1915 round oak dining table would cause minimal, if any, loss-of-value; however, a broken and repaired leg of

an early 19th century American Federal game table would cause a significant loss-of-value because while collectors might tolerate repairs to an early 20th century table, they are typically less accepting of repairs to an early 19th century table.

- **Criteria 3**: For the newly repaired damage to affect value, **the item must not have pre-existing damage** or old repairs of the sort which would reduce or eliminate the adverse impact of subsequent and similar sorts of new damage. For instance, one additional chip to the rim of an American brilliant-period (1880-1910) cut glass punch bowl which already had several pre-existing chips would not cause any measurable loss-of-value. Similarly, an antique chair with several surface scratches will not suffer a loss-of-value due to the addition of yet one more scratch that has been repaired. (Once again, while an appearance allowance or a goodwill allowance may be in order to pacify the owner, no loss-of-value can be shown to exist because collector desirability remains largely unchanged.)

Assuming the above three criteria have been met, two additional factors must be understood and taken into consideration in order to judge the relative degree of loss-of-value — the significance of the damage and the quality of the repair:

- **The significance of the damage**. While some damage might be considered major, much is not. Damages not considered major will have less of an impact on fair market value than damages that are considered minor. Again, we must keep in mind the age and marketplace desirability of the piece in question as well as consumer preferences regarding what is and is not acceptable.

    - For a painting, a tear along the edge of the work normally will cause much less of a diminution in fair market value than a similar tear at the center of the painting

    - A repaired surface scratch or rub mark on a piece of antique furniture is normally not considered to be a major drawback and may cause **no** loss-of-value once repaired.

    - Small sections of lost and replaced veneer, broken and repaired feet, or a properly restored gouge do have a **small** but noticeable impact on fair market value.

    - Major repairs such as the complete replacement of a dresser drawer, or the replacement of a missing hand on a Meissen porcelain figurine, or the complete stripping of the finish of a tall case clock causing the loss of original surface patina (typically very desirable to the collector) will cause significant loss-of-value.

- **The quality of the repair**. Invisible repairs using appropriate restoration techniques are vital to preserving the integrity and value of a damaged piece. Any deviation from this level of professionalism will impact adversely on the item's final fair market value. In other words, loss-of-value will be inversely proportional to the quality of the repair.

So, given all this, how does one arrive at a final opinion of loss-of-value when there is a dearth of market data for comparable sold properties that were in the same before-and-after condition? The appraiser is best served by applying the sales comparison approach to value to conclude an

opinion of fair market value prior to the damage less fair market value subsequent to the repair. Using available market data, the appraiser uses his or her best judgment to develop an opinion of loss-of-value based on an understanding of the marketplace, how appreciable and depreciable properties are replaced, how dealers discount the price of a repaired item in order to encourage a sale, and what types of damages and repairs are and are not an acceptable to the typical consumer.

Note that while the sales comparison approach to value is the best way to determine fair market value prior to and immediately following injury to a property, the use of the cost approach might prove helpful in the appraiser's analysis, but only with the understanding that the cost approach does not itself result in a type of market value such as fair market value, rather it merely sets the **uppermost limit** on what the fair market value of the property could possibly be. This point stems from the Principle of Substitution which states that a buyer will not pay more for a property than the cost of acquiring a new property of like utility.

Since it incorporates the **user's** perspective, the cost approach to value is, at its very core, an inappropriate method of determining a type of market value which, by definition, requires the use of the **market** perspective. While the cost approach can be used for determining replacement value (new) and reproduction cost for intended uses such as insurance (for property types capable of being suitably replaced with a brand-new property), it is not an appropriate approach to conclude a type of market value.

It is worth repeating that the only connection between the cost approach and a type of market value such as fair market value is that the cost approach (i.e., the cost to purchase or manufacture a brand-new property) sets the **uppermost** limit of what market value could possibly be— in this regard, the cost approach serves merely as a reference point so has only an incidental use in the analysis of an assignment involving the development of an opinion of loss-of-value.[139]

Book Value

Book value is an accounting term referring to the value of business assets shown on the balance sheet at original cost less accumulated depreciation to date. (Original cost is the amount paid for the item when it was first put into service either as a new item or as a used piece of property.)

Business assets are valued at any point in time according to 1) their original cost when first purchased, and 2) their anticipated economic life. The assets are depreciated over time throughout their economic life to a remaining salvage value at which point the property can continue in use or can be liquidated and/or replaced.

In accounting, depreciation is tied to income tax laws and is a way to approximate the "charging to expenses" of the original cost of business assets that are used for longer than one accounting period. The result, book value, is the original cost of the property less the accumulated depreciation. Personal property appraisers do not often become involved in determining book value as its calculation is usually the function of company accountants and/or business valuators.

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[139] See the section entitled *Insurance Appraisal* in Chapter 4 for a related discussion.

Insurable Value

Insurable value is another valuation term not commonly used in association with personal property or with personal property appraising. It is most often used within the real estate insurance industry.

The word "value" to appraisers will almost always mean an opinion of worth. However, in the insurance industry, **insurable value** is used to denote the cost of replacing the existing improvements on a site should they be destroyed. Of course, we typically think of an estimate of replacement cost new as a fact whereas a value is an opinion. Regardless, insurable "value" (really a misnomer) is defined as the replacement cost new of destructible improvements to a property. It is the value for which the property is insured after deducting the value of the land. (Land is always considered indestructible.)

As an example, although the market value of a home is $375,000, its insurable value is $325,000. This insurable value is based on an allocation of $50,000 as the value of the land and $325,000 as the replacement costs for the home and other man-made improvements such as a stand-alone garage.

Types of Cost

In the above sections, we have been discussing the first of the two primary tasks most often asked of a personal property appraiser—**to develop an opinion of value**. But in addition to developing opinions as to various types of value of an item, appraisers are also often asked to estimate various types of costs relating to the property.

Remember that values are typically based on market data—past sales of or current asking prices for comparable properties (this is known as the **sales comparison approach** to value). Such market data are "proof" of market value of the subject property within the specific marketplace that was researched. (There are actually three approaches to determining value of which the sales comparison approach is the approach most commonly used by personal property appraisers when developing opinions of market value. There are, however, two other approaches to value—the cost approach and the income approach. Both of these approaches to value are less frequently used than the sales comparison approach. All three approaches to value will be discussed in detail in Chapter 3.)

As opposed to **opinions of value**, cost estimates are normally not based on how much an item was sold for in the past, but rather on what the appraiser estimates or projects the cost of a replacement property will be in the future. For instance:

- To determine the replacement cost (comparable) for a client seeking insurance coverage for an oak ice box from the early 1900s, the appraiser searches the most appropriate retail marketplace to see what sellers are asking for a comparable ice box.

- If the appraiser is asked to estimate the replacement cost (new) for a household full of common, everyday items destroyed by fire, the appraiser could go to a department store or Internet websites and record asking price information for new replacement items.

These asking prices, then, are the properties' replacement costs, and they form the basis for the appraiser's opinion of their replacement values. Let's discuss replacement cost in more detail.

Replacement Cost

Replacement cost is generally defined as the cost required to obtain an item of personal property (through purchase or construction) with a new or comparable item (which will depend on the type of property being replaced). The replacement property should be of like kind and have similar characteristics such as age, authorship, condition, utility, etc. as the property being replaced.

The replacement property should also provide the same "rights of ownership" as did the property being replaced. In other words, the replacement property should provide its owner with the same anticipated benefits that accompanied ownership of the property that is being replaced. As discussed earlier, those benefits of ownership (known as the "bundle of rights) includes such rights as to use, consume, modify, display, donate, discard, etc. Replacing a stolen genuine Rolex watch with fake Rolex would hardly satisfy this requirement.

Replacement cost could take into consideration possible additional costs which might be incurred in the replacement process such as sales taxes, engaging an interior designer, shipping, etc. As noted, depending on the characteristics of the subject property (specifically, whether or not it can suitably be replaced with a brand-new item), replacement could be with either a new property or with a comparable property.

Replacement Cost + Judgement = Replacement Value



As discussed in 2020-2021 USPAP FAQ #367, an estimate of replacement **cost** is not an appraisal (though it is used as a major component for developing an opinion of replacement **value**). Cost is not an opinion of value. Cost is fact. The appraiser is required to apply his **judgment** in choosing relevant cost data and in making adjustments to those costs (if and when necessary). In doing so, he uses cost as a basis for a developed opinion of value—specifically, replacement value.



As an example: an appraiser might be tasked with developing an opinion of replacement value (comparable) for an antique clock for insurance purposes. He finds similar (but not exact duplicate) clocks for sale at a retail store. The appraiser makes use of his judgment and experience to select the most relevant comparable properties on which to base an opinion of value. But the appraiser must also make use of his judgment in order to make adjustments (assuming it is necessary to do so) in the asking prices of those clocks that are for sale. Such adjustments in price are required in order to account for differences between the relevant characteristics of the subject clock and the clocks that are being offered for sale.

Common scenarios in which an appraiser is called upon to develop an opinion of replacement value include:

- The insured needs an appraisal in order to obtain adequate fire, theft or casualty insurance coverage.

- To help claims adjusters arrive at a fair and equitable transit-related or casualty loss damage claim settlement.

- In jurisdictions where the "measure of loss" is defined as replacement value, an appraiser may be called upon to develop an opinion of replacement value for litigation purposes such as in a case involving a landlord's wrongful removal of a tenant's property.

All these opinions of replacement value are based on the **cost** to replace a property. There are various types of replacement cost. Their definitions vary, depending on these three issues:

- Is the subject property replaceable with a **new** property? Televisions can be suitably replaced with a brand-new item, but antiques, for instance, cannot. Must it be replaced with only a comparable property such as is typically the case with appreciable property including antiques, collectibles and fine art?

- Can a suitable replacement property be purchased new (such as a sofa) or must a new replacement property be constructed instead such as when replacing a painting of Aunt Betty originally done by a still-living artist?

- If a replacement property must be made, is an exact replica required (such as a reproduction made by the original artist) or will a similar equivalent item be "good enough" (such as a suitable copy by another craftsman who charges less)?

Additional Costs Associated with Replacements

When arriving at a conclusion of replacement cost, the appraiser must consider additional costs which might typically be incurred by the owner should an item need to be replaced. Such additional costs could reflect those costs which were actually incurred by the insured when the subject property was originally purchased, or which are anticipated to be incurred should replacement be necessary. Examples of such additional costs might include sales commissions, interior designer fees, finder's fees, shipping costs, sales tax, framing, etc.

In order to make the report more understandable and non-misleading, when preparing a replacement value appraisal report, the appraiser should note in the appraisal report whether or not such additional costs are included within the value conclusion. If such additional costs are not included (and they often are not), the appraisal might contain a statement such as the following:

> *Replacement costs used to determine replacement value do not take into account expenses that might be incurred in purchasing a replacement property such as framing, commissions, finder's fees, shipping, or other costs.*

Intended users (including the client, insurance underwriters, claims adjusters, claimant's counsel, etc.) are better prepared to make decisions by knowing whether or not these supplemental costs are included in the appraiser's opinion of value.

Below are definitions of the various types of replacement cost employed by the personal property appraiser when developing opinions of the various types of replacement value.

Replacement Cost (New)

Replacement cost (new) is defined as the present buyer's cost (through purchase or construction) necessary to replace a property with a **new** item of like kind, quality and utility (or with a new upgraded "equivalent" item) from within the insured's most relevant marketplace and within a reasonable amount of time. Replacement cost (new) applies only to properties for which new items can be substituted. Replacement cost (new) is not an applicable value type to employ in association with replacing items that possess such important relevant characteristics as provenance, authorship or age—value characteristics which cannot be duplicated through the purchase or construction of a **brand-new** property!

In general, replacement items can be obtained through the purchase of a new or equivalent item, or by constructing a new identical item or an equally good substitute item. Replacement **cost** (new) forms the basis for replacement **value** (new).

- Replacement cost (new) considers replacing property by purchasing either a new exact duplicate or a new suitable substitute property. An example of the former would be replacing a 60" Sony flat screen television with a new, same model 60" Sony flat screen television (i.e., an exact duplicate). An example of the latter would be the purchase of a comparable new 60" Samsung television (which is considered by all parties to be "suitable" substitute) because the Sony televisions were sold out.

  But from time to time, manufacturers upgrade their products. Replacement cost (new) takes this into consideration. If the subject property has been upgraded, replacement cost (new) makes use of the replacement cost of the latest model or style. If last year's upright vacuum model 4507 is no longer being offered for sale because it has been upgraded to an improved model 4507_A, replacement cost (new) would make use of the replacement cost for the newer 4507_A model.

- Replacement cost (new-reproduction) considers the buyer's cost to obtain a replacement property that has been constructed either as an identical item through **reproduction,** or as an equally good and acceptable (to the insured) substitute (i.e., an equivalent item) through what is referred to as **production**. While not identical to the lost property as is the case with a reproduction, the substitute equivalent property made through production would be "good enough."

  The definitions of the two possible methods of **constructing** a new replacement property are:

  - **Replacement cost (new - reproduction)** through reproducing is defined as the total buyer's cost to replace (by construction) the item being appraised with a **duplicate** property (i.e., an identical replica) using the original artist or a qualified artist or craftsman, and using the same materials, craftsmanship and construction techniques and plans as was used when making the original. An example would be the cost to reproduce a replacement custom-made bookcase or a painting of Aunt Betty by the original artist

  - **Replacement cost (new - production)** through producing is the total buyer's cost of to replace (by construction) the item being appraised with a **suitable substitute** property which would satisfy the insured. While not identical to the

property being replaced (as would be in the case with a "reproduction"), this item is an equally good and useful equivalent item and would be "good enough." An example would be to produce a custom-made bookcase out of a different and perhaps less expensive wood that would still satisfy the insured's needs.

The above description of replacement cost (new) reveals that for subject properties that are capable of being replaced with a **new** item, new replacement properties can be obtained in four ways:

1. **Purchase** of a **new duplicate** (identical) item. Example: an active sterling silver flatware pattern can typically be replaced with an exact replacement.

2. **Purchase** of a **new equivalent** (equally good substitute) item. Example: a discontinued four-year-old television can be replaced with an upgraded model.

3. **Reproducing** a **new duplicate** (identical) item. Examples: some contemporary items can be reproduced with an exact duplicate such as a custom-made stained-glass table lamp, or perhaps a contemporary figurative bronze sculpture that has been destroyed or stolen can be replaced if the artist is still living and is willing to make a replacement.

4. **Producing** a **new equivalent** (equally good substitute) item. Example: if the original materials or expert crafts persons are no longer available, the client might be satisfied with the **production** of an equivalent (but not duplicate) property made of different but suitable materials, design and technique.

Of the above four options to replace a property with a new item, the option which is applicable and acceptable and that has the **lowest cost** determines the replacement cost (new) of the property in question.

The Chapter 3 section entitled *The Three Approaches to Determining Value* will elaborate on how the cost approach to value is used for developing an opinion or replacement value (new) or reproduction cost for properties capable of being suitably replaced by a brand-new item.

Replacement Cost (New) Less Depreciation (a.k.a. Actual Cash Value)

Replacement cost (new) less depreciation is defined as the present cost (through purchase or construction) of replacing the subject property with a **new** item, less a proper deduction for depreciation, if any. It applies only to properties for which exact or suitably-acceptable **new** substitutes exist. Replacement cost (new) forms the basis for **actual cash value**.

When determining the replacement value of a subject property that is capable of being suitably replaced with a new item, consideration must be given to whether the subject property is in like-new condition or if it suffers from any form of depreciation including physical deterioration or some sort of obsolescence. If no depreciation is observed (i.e., the property is new or in like-new condition and suffers no obsolescence), then no deduction from the replacement cost (new) need be applied. But if the condition of the subject property is less than like-new or if the property does suffer from obsolescence, a deduction for this accrued depreciation must be subtracted from the replacement cost (new) in order to most accurately reflect the value of the less-than-like-new subject property.

Replacement cost (new) less depreciation recognizes a discount in value that needs to be applied as applicable to properties which are in less-than-new condition. This process normally makes use of the application of annual rates of depreciation as mentioned earlier in this chapter.[140]

Replacement Cost (Comparable)

Replacement cost (comparable) is defined as the cost (through purchase only—**not** by construction) necessary to replace an item (from within the insured's most relevant marketplace and within a reasonable amount of time) with a comparable item of like kind, age, quality, and utility having similar wear and tear, obsolescence, and relevant characteristics (including, for instance, provenance and authorship, if relevant) as the subject item.

Replacement cost (comparable) applies to items that cannot be suitably replaced with a brand-new property because of relevant characteristics such an antiquity, rarity, provenance, or authorship—characteristics which are not present in a brand-new property. Replacement (comparable) items must be either identical or sufficiently similar to the subject property. Examples include an antique table, a piece of vintage estate jewelry, or an old master's painting. Replacement **cost (comparable)** forms the basis for replacement **value (comparable)**.

For subject properties that can only be replaced with a **comparable** item, a comparable replacement property can normally be obtained in one of two ways:

1. Purchase of a comparable **duplicate** (identical) item. Example: a 19th century Currier & Ives lithograph or a mass-produced mid-20th century collectible can often be replaced with a duplicate item.

2. Purchase of a comparable **equivalent** (equally good substitute). Example: a painting by a known but deceased artist may be unique, but it can be replaced with a comparable painting of the same size and period, of a similar subject, quality and condition, and by the same artist.

Of the above two options to replace a property with a **comparable** item, the option which is applicable and acceptable and that has the **lowest cost** determines the replacement cost (comparable) of the property in question.

Reasonable Time/Most Relevant Market

Replacement value assumes that replacement will occur within a **reasonable amount of time** within the **most relevant market**.

Insurance companies recognize the need for the insured to obtain a replacement property within a reasonable time from the marketplace in which the insured normally makes purchases (i.e., from within the **most relevant** market) such as a local, high-end retail store, via an interior decorator, or on the Internet. The insured should not be made to wait an excessively long time in hopes of obtaining a replacement property at a lower price, say, from a discount source that may or may not have the item on sale at a particular time. Nor should the insured be required to undertake an

[140] See Chapter 4 for a further discussion of actual cash value.

extensive shopping expedition or to purchase a replacement property from a market in which he or she does not normally shop.

When preparing replacement value appraisals based on replacement cost, the appraiser should make use of retail markets in which the insured customarily and most conveniently shops, and in which the insured could make replacement purchases within a reasonable amount of time.

Repair Cost

When there is a transit-related or insurance casualty loss which does not completely destroy the property, the claims adjuster will be interested in both the replacement cost of the property as well as with its **repair cost**. By comparing the two, the adjuster can make a decision as to how to settle the claim. If the repair cost is less than the replacement value of the item, then it would be economically advisable to attempt repairing the item as opposed to cashing the item out for its replacement value.

The appraiser might be called upon to provide both replacement value as well as repair cost. Unless the appraiser also provides repair services for the damaged property in question, however, it will be necessary for the appraiser to either obtain repair quotes from a reputable repair firm or refer the claims adjuster to the repair firm directly.

Walk-Throughs



On occasion, a person inherits the contents of the estate of a deceased relative or otherwise comes into possession of an assortment of items. The new owner may have little knowledge about the property but may be curious about the items though he or she has no need for a written appraisal. The client wants to learn more about the property without incurring the expense associated with a written appraisal: What is the item? Who made it? How old is it? Is it collectible? Is it historically significant so that it should be kept and passed on to the next generation? Should it be given away to the Goodwill or Salvation Army? Should it be donated to a local historical society, or consigned to the trash? and, of course, What's it worth? Recognized appraisers [141] might be retained to conduct what some refer to as a "walk-through" in order to answer such questions. [142]

For a walk-through on-site oral appraisal report in which the appraiser inspects the items and verbally reports his or her opinions of value, there is no written version of the appraisal report.[143] However, the client might take notes or otherwise record the appraiser's comments. The appraiser answers the many questions the client might ask regarding the property, providing opinions of values as he or she proceeds. (To expedite the process, the appraiser may be asked to appraise only those items that exceed a certain level of value, such as over $50.) The process goes fairly

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[141] Appraisers who undertake the oral appraisal of large assortments of household contents must be very knowledgeable and experienced in the many property types they are likely to encounter. In addition, while largely making use of the appraiser's past personal observations, such assignments will often require the appraiser to access the Internet in order to do on-the-spot research.

[142] See the Chapter 5 section entitled *Oral Appraisal Reports.*

[143] While an oral appraisal report, by definition, is verbal and not written, the appraiser might choose to provide the client with a written disclosure statement such as that found in Appendix HH *Oral Appraisal Report Disclosures Statement* to facilitate compliance with USPAP's Standards Rule 8-4 *Oral Appraisal Report*.

quickly and minimizes cost as the client pays only for the time the appraiser spends on site and not for time spent in preparing a written report.

Call it what you may, if the appraiser provides opinions of value during the walk-through then that constitutes an **appraisal** in which case the appraiser must comply with the relevant parts of USPAP including, but not limited to, the RECORD KEEPING RULE, the SCOPE OF WORK RULE, and STANDARDS 7 *Personal Property Appraisal, Development* and 8 *Personal Property Appraisal, Reporting*.

The SCOPE OF WORK RULE requires that appraisers add a written summary of the oral report to the assignment workfile within a reasonable time after issuing the oral report. It also requires that the workfile includes a signed and dated USPAP certification.[144] The written summary would include (perhaps as a hand-written attachment or as an audio recording, if such was used) the oral opinions of value along with brief item descriptions sufficient enough that the items can later be recalled by the appraiser as well as be recognized by the client, e.g., "sofa $25," "brass floor lamp $15," "washer & dryer $150."

Note that if, during the course of the inspection, the appraiser provides only factual information (as opposed to an opinion of value) such as stating, "Singer treadle sewing machines normally sell at retail for between $100 and $250," then the appraiser has not performed an appraisal and is not bound by USPAP since there are no standards that pertain to simply stating factual information.[145]

Not all appraisers should be doing all walk-through, oral appraisal assignments. Those who choose to perform walk-throughs should limit themselves to property types falling within their level of knowledge, experience and comfort. Walk-throughs are often done without the benefit of the appraiser performing research to confirm an opinion. Rather, the oral opinions of value issued during walk-throughs are based almost solely on the appraiser's knowledge, experience and past market-related personal observations. Common furniture, household goods and other depreciable property and certain antiques and collectibles may present no challenge to the experienced appraiser performing oral appraisals without confirming research. However, some types of property may challenge the appraiser's existing knowledge to the extent that the appraiser does not feel comfortable attempting to value an item. In such cases, the appraiser should either:

- Conduct on-the-spot research such as making use of the Internet to search applicable websites or databases, or
- Research at a later time and notify the client of his or her findings, or
- Decline to appraise the item and instead refer the client to a specialist appraiser.[146]

Supplemental Reading:

- USPAP COMPETENCY RULE

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[144] See Appendix AA *Agreement for an Oral Opinion of Value (Oral Report Summary)*
[145] See the Chapter 7 section entitled *Providing Factual Information vs. Opinion of Value*
[146] See the Chapter 7 section entitled *When Must an Appraiser Comply with USPAP?* for a discussion of the appraiser's USPAP obligations. Other related discussions include the Chapter 1 section entitled *Oral Reports* and the Chapter 8 section entitled *Unconsidered Opinions of Value.*

- USPAP Standard Rule 8-4 *Oral Appraisal Report*

Non-Monetary Opinions

As opposed to appraisals (which are opinions of value), on occasion the personal property appraiser may be asked to offer a **non-monetary** opinion which is an opinion, judgment or conclusion not of value but regarding information about or characteristics of the item itself.

Such opinions are based on an evaluation of the property. For the personal property appraiser, an "evaluation" is the process of determining the property's non-monetary characteristics that contribute to value such as age, condition, quality, marketability, cause of damage, authenticity, etc.

Evaluation: The Term as Used in Real Property Appraising



Note that for real property, an "evaluation" is a valuation service that provides a market value of real property for collateral purposes. Evaluations are used for federally regulated financial institution real estate loans with a transaction value at or below the current de minimis of $500,000. For transactions in excess of this amounts, a USPAP-compliant "appraisal" is required—not just an "evaluation."

Evaluation is a term created by the various federal banking and regulatory agencies to mean a valuation that is permitted under the *Interagency Appraisal and Evaluation Guidelines*. These guidelines allow lenders to have their own internal requirements regarding format and content for valuations under the de minimis. These requirements vary from USPAP requirements—indeed, they are often more complex. Regardless, when performed by one required to comply with USPAP, that opinion of market value (i.e., the "evaluation") is, indeed, an **appraisal** for which USPAP applies.[147]

Examples of Non-Monetary Opinions

Examples of non-monetary opinions an appraiser might be asked to give include a conclusion or opinion regarding:

- Identification
- Age
- Country of origin
- Provenance
- Authenticity
- Authorship
- Condition
- Characteristics relevant to value and marketability
- Marketplace acceptability
- Quality of construction
- Pre-existing nature of observed damage
- Anticipated length of time (i.e., the marketing time) required to dispose of the property

[147] See Advisory Opinion 13 *Performing Evaluations of Real Property Collateral to Conform with USPAP* for a related discussion of real property evaluations.

- The market in which the property could be sold in the most lucrative manner
- Alternative markets for a property

In practice, monetary opinions (i.e., "appraisals") normally require non-monetary judgments as to age, condition, authenticity, etc. So, a non-monetary opinion based on an evaluation of the property is normally required in order to form the foundation for an appraisal.

Chapter 3: Appraisal Principles Part II

In this Chapter, we will be addressing several more important topics including: 1) scope of work, 2) intended use of an appraisal, 3) purpose of an appraisal, 4) valuing ownership rights, 5) three types of property, and 6) three approaches to value.

Scope of Work

In basic terms, scope of work refers to the degree or amount of work an appraiser performs in order to **develop credible assignment results**. Scope of work applies to the appraisal **development** phase of the appraisal process (i.e., as governed by STANDARD 7 *Personal Property Appraisal, Development* of USPAP) but not to the **reporting** phase of the appraisal process (which is governed by STANDARD 8 *Personal Property Appraisal, Reporting* of USPAP). In other words, scope of work reflects the STANDARD 7 requirements for work that must be performed by the appraiser in order to develop credible opinions and conclusions.[148], [149]

Who Determines Scope of Work?

It is the appraiser's responsibility to determine and perform the appropriate scope of work required for the assignment at hand. The appraiser may accept a scope of work specified by the client but only if the requested scope of work allows the appraiser to develop credible assignment results. If it does not (and if the appraiser cannot manage to get the scope of work changed so that credible results can be developed), he or she must withdraw from the assignment. (2020-2021 USPAP FAQs #165 and #166)

Documenting the scope of work in the assignment report provides the client as well as other intended users of the report with a clear understanding of how the appraiser's opinion was developed, i.e., of the extent of the inspection (if any) and of the research and analyses that was performed by the appraiser. Clients and other intended users are then in a position to determine for themselves if the assignment results contained in the report are credible and whether or not to place reliance on the findings. Disclosing work actually performed may have the added benefit of protecting the appraiser against unwarranted liability claims.

Scope of work is defined by USPAP as:

> *SCOPE OF WORK: the type and extent of research and analyses in an assignment.*

USPAP's SCOPE OF WORK RULE states:

> *For each appraisal and appraisal review assignment, an appraiser must:*

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[148] See the Chapter 1 section entitled *Appraisal Process, Step 2: Determine the Scope of Work* as well as the Chapter 7 section entitled *SCOPE OF WORK RULE* for additional discussions regarding scope of work.

[149] Once the scope of work has been completed, the requirements of STANDARD 8 *Personal Property Appraisal, Reporting* come into play delineating how the appraiser must communicate his or her opinions in a manner that is understandable and not misleading.

1. *identify the problem to be solved;*

2. *determine and perform the scope of work necessary to develop credible assignment results; and*

3. *disclose the scope of work in the report.*

The SCOPE OF WORK RULE applies **only** to **appraisal** and **appraisal review** assignments (the same assignment types to which USPAP STANDARDS 1 through 10 apply). The RULE does **not** apply to other types of appraisal practice assignments the appraiser might perform such as writing educational appraisal texts, teaching appraisal courses, collecting comparable sales data for use in another appraiser's assignment, inspecting the subject property, estimating accrued depreciation, etc. All such activities, while considered examples of "appraisal practice," do not have USPAP RULES with which the appraiser must comply. USPAP RULES apply only when performing an **appraisal** or **appraisal review**.[150]

Scope of work includes, but is not limited to the following:

- The degree to which the property is inspected (personal inspection by the appraiser? inspected by another appraiser? not personally inspected at all?)

- The degree to which the property is identified (was it authenticated? tested? was identification assistance provided by others? were characteristics identified by means of client-provided photographs and descriptions?)

- The type and extent of data research (For an appraisal assignment, were only the more valuable items researched? Were common and usual items such as used clothing and household goods not researched? What were the sources of comparable market data?)

- The type and extent of analysis applied to arrive at opinions or conclusions (For an appraisal, which approach(es) to value were developed—the sales comparison approach? cost approach? income approach? And which were considered but not developed, and why?)

Identify the Problem to be Solved Before Determining Scope of Work

In order to make a determination of the scope of work which will be necessary to develop credible assignment results, the appraiser must **first identify the appraisal problem**. Appraisers often find themselves in a compromising position merely by failing to completely identifying the appraisal problem prior to proceeding with the assignment. For example, as noted below, identifying the problem requires that the appraiser identify (among other things) the type and definition of value to be used. This requirement might be a straight forward exercise for the intended use of income tax purposes such as the client making a noncash charitable contribution to a museum. In such assignments, the IRS provides a mandated value type and definition to be used—Fair Market Value. But when the intended use of the appraisal is for litigation purposes, the appraiser must work closely with the client and his or her attorney in order to get a clear understanding of the type and definition of value to be developed. I normally accomplish this by

[150] We will discuss appraisals and appraisal reviews as well as related issues in greater detail in Chapter 7 entitled *Uniform Standards of Professional Appraisal Practice (USPAP).*

having the attorney email me the type and definition of value I am to develop as well as the source for that definition. The source for the value definition for litigation purposes might be a precedent-setting court case or jury instructions.

Assignment Elements Serve to Identify the Problem

USPAP Standards Rule 7-2 *Problem Identification* addresses the assignment elements necessary for the appraiser to identify in order to properly identify and understand the appraisal problem as it relates to personal property.[151]

To identify the appraisal problem, the appraiser must identify six **assignment elements** that characterize all appraisal assignments.

The appraiser must identify these assignment elements:

1. Client and other intended users
2. Intended use of the appraisal
3. Type and definition of value to be used (and the source of that definition)
4. Effective date of the appraisal
5. Identity of the subject property as well as its relevant characteristics
6. Any applicable assignment conditions. Assignment conditions include any condition that affects the scope of work. Client-imposed requirements would fit the definition of *Assignment Elements* if those client-imposed requirements were to affect scope of work.

This first crucial step of **problem identification** is often given too little attention by the appraiser which, consequently, leads to unreliable assignment results and dissatisfied clients. To avoid this pitfall, it is essential that the appraiser begin the assignment by clearly communicating with the client in order to uncover and identify the important pieces of information involving the assignment. Doing so will allow the assignment problem to be accurately identified, which, in turn, will allow the appraiser to determine a scope of work that will lead to credible assignment results which will be supported by relevant evidence and logic.

For the personal property appraiser, then, problem identification requires that the appraiser identify the following:

1. **Client and other intended users.** The client is the party or parties who engage the appraiser for a particular assignment. This engagement carries with it a special appraiser-client relationship to which are attached significant ramifications regarding trust, confidentiality, disclosure, and liability. The appraiser has this relationship only with the client and no other. Being a client does not hinge on who compensates the appraiser. For example, the executor of an estate (an individual) might be the client, while the estate (an entity) of the deceased might be responsible for paying the appraiser's fee. In addition,

[151] See SR 1-2 for real property appraisal assignment elements which must be identified and SR 10-2 for business enterprises or intangible asset appraisal assignment elements which must be identified.

the client is the appraiser's primary contact person regarding the assignment, i.e., the one from whom information regarding these six "problem identification" assignment elements is obtained, and to whom confidentiality is owed.

Intended users include the client, but they also include any other party identified by the appraiser (through communications with the client) as users of the report. By identifying intended users, the appraiser is acknowledging that he or she is developing opinions and conclusions for their use, that the appraiser is responsible for identifying their needs, and that the appraiser is responsible for communicating the assignment results to them (as well as to the client) in an understandable, clear, non-misleading and credible manner.

A person does not become an intended user simply because that person receives a copy of the report. An example would be the opposing side in a litigation might obtain a copy of the appraisal report through the discovery process, but that does not make the opposing side an intended user. Only if the appraiser intends one to be an intended user does that person, in fact, become one.

If the only intended user is a client who has extensive pre-existing knowledge about the subject property, perhaps a limited scope of work is in order. However, if there are intended users (perhaps ill-informed about the property), extensive detailed information might have to be included within the appraisal report so that they, too, will be able to understand the report.

2. **Intended use of the appraiser's analyses, opinions and conclusions**. Intended use is the way the appraisal will be used by the client as identified by the appraiser. Litigation, divorce, donation and estate settlement are only a few of the many ways an appraisal might be put to use by the client. **Intended use is the most important of all six assignment elements. It is the key driver in making a scope of work decision.**

   Clients who need an opinion of value for personal reasons (such as personal estate planning, division of property among heirs, or in anticipation of selling the property) may require minimal item descriptions and little in the way of market research in order to justify the appraiser's conclusion of, say, fair market value. As a result, the scope of work can be narrow. On the other hand, a client wishing to donate a valuable painting to a museum must comply with IRS regulations so would require extensive description of the property, detailed research and analysis, full documentation of market conditions and comparable sales, and a complete justification for the appraiser's conclusion of fair market value. In such an instance, the scope of work must be broad. Without knowing how the appraisal will be used, the appraiser is unable to make his or her scope of work decision—thus, the significance of identifying **intended use**.

3. **Type of assignment; type and definition of value**. The results of an assignment might be an **appraisal opinion** (i.e., a value) or **an appraisal review opinion**. Each assignment type has its respective purpose, but personal property appraisers focus primarily on appraisal assignments and the need to identify the needed **value type and its associated definition**.

   For an **appraisal opinion**, the appraiser must **identify** the type of value required to be used, given the nature of the client's appraisal problem and the intended use of the report.

There are many types of value including market value, fair market value, replacement value, fair value, investment value, etc. Sometimes one type of value may even have more than one definition. The type of value and its corresponding definition chosen by the appraiser to employ in the assignment will direct the appraiser as to the appropriate market to explore. Some value definitions may require the use of markets which can be explored rather easily via the Internet, while other value definitions may require the use of markets which require considerably more effort to properly explore. Some definitions of value may require the "most common" market be explored, while other definitions of value may require the use of markets in which property is liquidated under duress within a short period of time, or in which the client most commonly shops and in which the client can obtain a replacement property within a reasonable length of time.

4. **Effective date of the appraiser's opinions and conclusions**. This is an important appraisal problem element to identify as the appraiser's opinions are reflected as of this date and no other. The effective date can be the current date, a prospective (future) date, or a retrospective (past) date. The date is not chosen by the appraiser—it is determined by the nature of the client's appraisal problem and the intended use of the report. For example, a donation appraisal will have as its effective date the date of donation. A damage claims appraisal will make use of the date of loss as the effective date. The effective date of the appraisal for a divorce appraisal is often the date of separation.

5. **Subject of the assignment; relevant characteristics**. The subject of an appraisal **review** assignment is the work of another. But the subject of an **appraisal** assignment is some sort of property—either personal, real or business property.



For personal property appraisal assignments, the personal property appraiser must identify the subject property as well as its nature. Specifically, the appraiser must identify the property's relevant characteristics (i.e., relevant to the definition of value being used as well as to the intended use of the assignment being undertaken) such as its quality, economic and physical characteristics. Normally (but not always), this information is gathered by means of a personal inspection of the subject property by the appraiser.

An unusual, rare, or potentially valuable property will require a more sophisticated and lengthy process to identify/authenticate, describe, research, and analyze. Specialists may even be called upon to provide professional appraisal assistance. On the other hand, common objects of property do not require such an extensive or complicated protocol. Many depreciable types of property such as common household goods for which research would not be cost-effective may require no research at all. Rather, it may be possible to value such nominally-valued items simply by the appraiser making use of his or her experience, knowledge and past personal observations without having to perform time-consuming and expensive opinion-confirming research.

6. **Assignment conditions**. The need to take assignment conditions into consideration is driven by the nature of the problem to be solved. Assignment conditions (if they apply at all) include **limiting conditions**, **hypothetical conditions**, **extraordinary assumptions**, **jurisdictional exceptions**, and possibly many others.

Here are some limiting condition scenarios that would need to be identified during problem identification because of the potentially significant impact they might have on the appraiser's scope of work:

- **Limited access**. There might be a limiting condition preventing the appraiser from being able to personally inspect the property. A property may have been stolen or lost in a fire. Perhaps it is considered impractical to ship an item of personal property to the appraiser because of the expense involved, the fragility of the item, or because the item might be extremely valuable. In such cases, in lieu of the scope of work including a personal inspection to identify relevant characteristics of the property, the scope of work necessarily needs to incorporate alternatives such as the client-provided photographs and descriptions, or the use of assistance from another appraiser who lives in close proximity to the subject property.

- **Limited time**. The limiting condition of time constraints may require the appraiser to minimize the efforts put into identifying, authenticating and describing the property, and limit the amount of market and value research and analysis conducted. If so restrictive such that the appraiser is unable to develop credible assignment results, the appraiser may have to decline or withdraw from the assignment.

- **Limited budget**. In a similar way, limiting the appraiser's fee may prevent the appraiser from conducting the appraisal process in a complete enough manner to be able to render a credible and non-misleading report. If funding is too restrictive, the appraiser may have to decline or withdraw from the assignment.

- **Degree of client's pre-existing knowledge about the property**. Clients who have knowledge of the subject property may not wish to spend the time or money having the appraiser uncover information about which the client is already knowledgeable. In such cases, the client may limit the assignment's scope of work. The scope of work will be more extensive, however, if the client has little of the required knowledge about the subject property.

- There are many, many other types of assignment conditions that the appraiser might encounter such as:[152]

    - Is there dissention among parties?

    - Are there limitations on what information the appraiser is allowed to disclose?

    - Are there deadlines by which the appraiser must complete the report?

    - Is the property available for inspection or must the appraiser make do with photographs and/or written descriptions provided by the client?

    - What are the property types and what are the levels of value of the items being appraised and is the appraiser competent?

    - Must the appraiser make use of other appraisers or property type experts to assist in the assignment?

[152] For an expanded discussion regarding other types of assignment conditions the appraiser might encounter, see the section entitled *Assignment Conditions* in Chapter 1.

Identifying the above six assignment elements is essential to identifying the problem to be solved. Once the appraiser has identified the problem, the appraiser can proceed to the next step: deciding on the scope of work necessary to produce credible assignment results.

To ensure that all necessary information is obtained upon initial communication with the client, make use of a form such as the *Client Data Form & Assignment Activity Log* shown in Appendix A. This form includes, among other information, those six assignment elements of information necessary for proper problem identification.[153]

Scope of Work: Limited or Broad?

Note that scope of work addresses the **development stage** of the appraisal, i.e., what must be done in the information-gathering-and-analyzing stage in order to arrive at a credible opinion. Scope of work does not pertain to the **appraisal reporting stage** during which the appraiser communicates his or her findings to the client and other intended users—it only applies to the initial phase of the appraisal process during which the appraiser is gathering information, analyzing data and applying the appraisal methodologies necessary to develop a credible opinion or conclusion.

Scope of work is determined by the appraiser. It is based on the needs of the client and other intended users and may even take into consideration the amount of knowledge about the property that the client already has. Client input is part of the appraisal process, and communication with the client is required to establish most of the information necessary for problem identification and the subsequent scope of work determination.

The client can be the one to specify the scope of work **but only if** the appraiser determines that the client-defined scope of work will allow the appraiser to develop credible assignment results. The client may order a limited scope of work appraisal assignment that does not at first allow compliance with all of the requirements of USPAP. Such restrictions might include a shortened turnaround time, a limited degree of inspection, or a restriction on the approaches to value the appraiser is to develop. After considering the client's assignment description, it is up to the appraiser to determine:

- If an adequate scope of work can be developed from those client-imposed restrictions,
- If the client needs to modify his or her requirements if the appraiser considers them too restrictive, or
- If the assignment needs to be declined.

If the scope of work specified by the client does not allow the development of credible assignment results (in other words, if it is too restrictive and would prohibit the appraiser from developing results that are worthy of belief) the appraiser needs to discuss with the client changing the scope of work or, that failing, the appraiser needs to withdraw from the assignment.

[153] See the Chapter 7 section entitled *The Appraisal Process and USPAP* for a related discussion regarding problem identification

The scope of work actually performed must result in credible assignment results. Whether or not the scope of work is adequate and the assignment results are credible must be considered in the context of the intended use of the report. For example,

- The scope of work may be very extensive such as would be the case for a taxpayer requiring a fully-narrative Appraisal Report complete with an analysis of comparable sales, a market analysis, and with documentation of authenticity and provenance for a valuable painting being donated to a museum. In such a case, the degree to which the property is inspected, identified, authenticated, researched and described, and the extent of market and value research expected of the appraiser as well as his rationale for his opinions (i.e., the scope of work) must be substantial.

- On the other hand, the scope of work might be much less involved such as would be the case for a collector who (already intimately knowledgeable regarding the identity, history and authenticity of his or her collection of glass paperweights) is merely looking for current market values so that he or she can offer the collection for sale at a fair asking price. In this case, the appraiser exerts significant effort in value research; however, minimal effort is placed in the description and authentication of the items since the client is already familiar with that information and does not wish to pay for unnecessary services. In such a scenario, the use of USPAP's Restricted Appraisal Report option would probably be in order.

Acceptability of Scope of Work

Determining and then performing the work necessary to develop credible results is the essence of scope of work. But how does one know that the amount of work done is sufficient? USPAP's SCOPE OF WORK RULE addresses this issue. It states that the appraiser's scope of work is considered acceptable when it satisfies these requirements:

- **Leads to credible assignment results**. Appraisers must use their training, experience and judgment to determine a scope of work that produces credible assignment results.

  As noted, whether or not assignment results are credible is measured in the context of the assignment's intended use. Results that are credible for one intended use may not be credible for another intended use. For example, a scope of work including the extraordinary assumption that an unusually-marked teapot is made of sterling silver may be acceptable for the intended use of acquiring insurance, but would not provide sufficiently credible assignment results if doing an appraisal for the intended use of an IRS noncash charitable contribution. In the former instance, little research is done. In the latter case, experts may have to be called upon to ascertain age, country of origin, maker's name, etc.

- **Meets or exceeds the expectations of regular intended users of similar assignments**. Assignments are considered to be **similar** if their respective assignment elements (i.e., intended use, type and definition of value, needs of the client and other intended users, familiarity with the appropriate market, relevant assignment conditions, etc.) are comparable.

- **Meets or exceeds what an appraiser's peers' actions would typically be in performing the same or a similar assignment**. Note that USPAP defines *Appraiser's Peers* as:

  > *APPRASIER'S PEERS: other appraisers who have expertise and competency in a similar type of assignment.*

  The determination of who might be an appraiser's peer is assignment-specific and may change from assignment to assignment since different appraisers have varying levels of expertise and experience in product knowledge and intended uses.

  USPAP's Advisory Opinion 29 *An Acceptable Scope of Work* notes that:

  > *To be an appraiser's peer for a particular assignment, one must have the competency to address the appraisal problem presented in that assignment. This includes the knowledge and experience to:*
  >
  > - *properly identify the appraisal problem to be solved;*
  > - *determine the type and extent of research and analyses to include in the development process; and*
  > - *perform the required research and analyses properly*

Determining if an individual is an appraiser's peer requires examining the individual's expertise regarding each of the assignment elements. Since varying appraisal assignments can require different levels of appraiser expertise and competency, and since assignments can differ significantly depending upon the assignment elements, one may be considered an appraiser's peer for one assignment but not for another.

Merely holding the same type or level of societal credential, or merely having the same subject-matter expertise does not necessarily satisfy this. Determining if one is an appraiser's peer requires examining the individual's expertise in the context of all the assignment elements in each specific assignment. How does one know what a peer might do in a similar assignment? Such awareness is obtained through participating in the profession such as from professional newsletters, journals, courses, seminars, meetings, conferences, and online discussion groups.

Disclosure of Scope of Work

In the appraisal report, the appraiser must disclose the scope of work actually performed in the assignment. Users of the report rely on this disclosure to understand the research and analyses performed in the assignment. Note, too, that the scope of work may change **during** the course of an assignment. It's a common occurrence. If the scope of work changes during an assignment, the appraiser should explain in the report the scope of work that was actually performed during the development process, including a reference to the scope of work change that was made midway through the assignment. The appraisal report must contain sufficient information regarding the research and analysis that was actually performed in order to allow the client and other intended users to properly understand appraisal report.

Separate Scope of Work section? USPAP AO-28 *Scope of Work Decision, Performance, and Disclosure* states there is no requirement that the scope of work be contained in a separate section of the report. It can be, if the appraiser so chooses, or it can be described in various sections throughout the report; or the work performed can be in both a separate section as well as in other locations. Scope of work is normally appraisal-specific information so it would typically appear in the transmittal letter, but assume I retained an expert to authenticate item #4. This element of my work would more appropriately appear in the Valuation Section enclosure along with item #4's description of relevant characteristics since I'd consider authentication as item-specific information.[154]

Regardless, do not use a boilerplate (i.e., unedited text) scope of work statement. Be sure to customize your scope of work for each assignment so that the client will be aware of all the research you did and the analysis you applied in order to reach your conclusions. It can take a lot of thought and careful narrative to explain how the scope of work was sufficient to produce credible assignment results. This is best done by clearly explaining by means of the scope of work how the requirements of USPAP STANDARD 7 *Personal Property Appraisal, Development* were properly considered and satisfied.

Scope of Work Example Statements

Scope of work, which includes the type and extent of research and analysis that was conducted, will vary considerably from assignment to assignment, and, as noted, scope of work information can be placed in a single location within the report and/or it can be spread throughout the document if doing so would result in a more organized and understandable report.

While not exhaustive, the following table includes some examples of what might be included within the scope of work depending on the type of assignment. These snippets will give you an idea of the type of issues addressed by the scope of work:

<table>
<tr><td colspan="2">I determined the scope of work for this assignment. Scope of work is based on my past experience with the type of property being appraised and on information obtained from my client including the intended use of the appraisal, identified intended users, my selection of a defined type of value and the use of the associated relevant marketplace, the effective date of the appraisal, my identification of relevant characteristics of the property, and any assignment conditions that might pertain such as limiting conditions, extraordinary assumptions, hypothetical conditions, and jurisdictional exceptions.</td></tr>
<tr><td>I personally inspected the items that are the subject of this report to determine their relevant characteristics.</td><td>I made use of client-provided photographs and verbal descriptions of the lost property in order to identify their relevant characteristics. I made the extraordinary assumption that such information provided by the client was accurate.</td></tr>
<tr><td>Research conducted included making use as necessary of relevant resource books, value guides and specialized Internet websites. Value research also consisted of personal observations made at secondary market retail establishments, and local auction and estate sales.</td><td>Identification research was conducted making use of relevant resource books and specialized Internet websites. Value research was conducted at local antiques malls, auctions, antiques stores, and through price guide research and searches on Internet website databases including p4a.com, liveauctioneers.com, and priceminer.com.</td></tr>
<tr><td>For items of nominal value for which extensive research is neither necessary, cost-effective, nor required by the client or the intended use of the report, minimal value research was conducted.</td><td>Low-value, depreciable items such as everyday pots and pans or common hand tools may have been grouped together and minimally described or researched.</td></tr>
</table>

[154] See Chapter 11 for discussions of appraisal-specific and item-specific information.

Appreciable items are normally listed individually, described to a degree commonly accepted within the industry, and researched to a degree commensurate with their level of value.	As indicated in my letter of introduction, I do not appraise coins, stamps, or jewelry.
Mr. Robert Jones assisted in this appraisal by providing professional appraisal assistance in valuing the paintings (items 12 and 13). Mr. Jones personally inspected these items, identified their relevant characteristics and developed an opinion of their values which I have incorporated into this report. His qualifications are attached.	I did not test any mechanical, electrical or electronic item of property. I made the extraordinary assumption that, based on information provided by the client, that all such devices were in good working order.
As permitted by state *Estate Codes*, in this estate appraisal I did not list food stuffs, home office supplies, consumables, clothing (other than furs and appreciable articles of clothing having collector appeal), or items of a personal nature such as family photographs, health aids, personal hygiene products, etc.	Minimal or no research was conducted for items which I felt could be accurately and credibly valued based primarily on my experience, knowledge and past personal observations of buying and selling activity within the relevant market.
Opinions of value are based on my past personal observations of marketplace activity as well as on local auction sales results, relevant price guides, and Internet database searches on p4a.com, rubylane.com, goantiques.com, and priceminer.com.	For this estate appraisal, value research for depreciable items of property made use of the market in which such items are most commonly sold to the end user. Included in the research were my personal observations of market activity at second-hand stores and yard sales.
Because of the client's thorough pre-existing knowledge of the appraised property and at the client's request, I agreed to limit the scope of work to that research necessary to a develop a credible opinion of market value based upon the extraordinary assumptions that the items are genuine.	Appraised items were found to be common, depreciable property of minimal value; accordingly, limited research was conducted. Rather, my past personal undocumented observations were used as a basis for my value opinions.

Supplemental readings:

- USPAP Advisory Opinion Advisory Opinion 22 *Scope of Work in Market Value Appraisal Assignments for Real Property*[155]
- USPAP Advisory Opinion 28 *Scope of Work Decision, Performance, and Disclosure*
- USPAP Advisory Opinion 29 *An Acceptable Scope of Work*

Inspection vs. Non-Inspection



As noted above, scope of work includes (among other things) the degree to which the property is personally inspected by the appraiser. The primary reason for an appraiser to inspect a property is to "identify" the property, i.e., to gather information about the characteristics of the property that are relevant to its value and marketability, and to the intended use of the appraisal. In general, these are referred to as **relevant characteristics**. They consist of economic characteristics, quality characteristics and physical characteristics of the property.

But is a **personal, hands-on** inspection[156] by the signing appraiser required in order to gather the necessary information, i.e., to properly identify the relevant characteristics of the property? The answer is "No" (though it is advised whenever possible). (2020-2021 USPAP FAQ #227)

[155] While the title of AO-22 *Scope of Work in Market Value Appraisal Assignments for Real Property* would imply that its application is strictly for **real** property appraisals, AO-22 has sections which are applicable to **personal property** appraisals as well.

USPAP defines *Personal Inspection* as:



> *PERSONAL INSPECTION: A physical observation performed to assist in identifying relevant property characteristics in a valuation service.*
>
> *Comment: An appraiser's inspection is typically limited to those things readily observable without the use of special testing or equipment. Appraisals of some types of property, such as gems and jewelry, may require the use of specialized equipment. An inspection by an appraiser is not the equivalent of an inspection by an inspection professional (e.g., a structural engineer, home inspector, or art conservator).*

USPAP does not require that the appraiser perform a personal inspection. What USPAP **does** require is for the appraiser to identify the property's characteristics that are relevant to value, but a personal inspection by the appraiser is not always required to meet that requirement.

The focus is on **identifying** the property. The focus is **not** on **inspecting** the property. USPAP's Standards Rule 7-2(e) requires that the appraiser:

> ***Identify, from sources the appraiser reasonably believes to be reliable, the characteristics of the property*** *that are relevant to the type and definition of value and intended use of the appraisal, including:*
>
> > *(i) sufficient characteristics to* ***establish the identity*** *of the item including the method of identification;*
> >
> > *(ii) sufficient characteristics to* ***establish the relative quality*** *of the item (and its component parts, where applicable) within its type;*
> >
> > *(iii) all other* ***physical*** *and* ***economic characteristics with a material effect on value****;*
> >
> > > *Comment: Some examples of physical and economic characteristics include condition, style, size, quality, manufacturer, author, materials, origin, age, provenance, alterations, restorations, and obsolescence. The* ***type of property****, the* ***type and definition of value****, and* ***intended use*** *of the appraisal determine which characteristics have a* ***material effect*** *on value...* [emphasis added]

While in many cases the personal observations of the appraiser made during a hands-on inspection are the primary source of information regarding the relevant property characteristics of the subject property, an inspection is not required by USPAP even though one is more often than not conducted. USPAP does **not** require a personal inspection, but, as noted in the above, USPAP **does require** that the appraiser:

- **Identify** the item
- **Identify** the item's quality characteristics

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[156] See the Chapter 1 section entitled *Personal Inspections*.

- **Identify** the item's value-relevant physical and economic characteristics

The item's **quality characteristics** combine with its **physical and economic characteristics** to form what are referred to, in general, as "relevant characteristics."

- **Quality characteristics of property**. This is a "good, better, best" type of gauge and includes such characteristics as material, condition, alterations, damages, restorations, repairs, conservation, additions, obsolescence, missing parts, physical deterioration, etc. All else being equal, the better the quality the higher the property's value.

- **Economic and physical characteristics of property**. These are **economic** and **physical** characteristics that have a material effect on value. All else being equal, the better the economic and physical characteristics present, the higher the property's value.

    - **Economic characteristics** are extrinsic to the property. Examples include:

        - Is the property plentiful? Scarce?

        - Has a catastrophic natural disaster impacted the regional market?

        - Is it in- or out-of-style?

        - 

Is the item's importance to the collector enhanced by significant provenance?

        - Is it made from out-of-favor animal fur or parts of illegal contraband material such as banned ivory?

        - Is it a passing fad or a collecting trend with longevity?

        - Is it depreciable, common and undesirable, or is it appreciable, rare and in great demand?

    - **Physical characteristics** are intrinsic to the property. Examples include:

        - Is the maker well-known and identifiable? A work of art might have the contributing physical attribute of signed by a known and listed artist. Hallmarks or maker's marks on jewelry or silver identifying the standard, age, maker and/or country of origin are often very important characteristics which must be identified. Does regionalism come into play? Often property attributed to a local maker is more valuable within the maker's locale than at a distance.

        - Does the item have desirable features? Highly-carved back, knees and feet are physical relevant characteristics of a period Chippendale chair, but porcelain casters added to it in Victorian times would not be a value-relevant attribute.

        - 

What is the condition of the property? Is it in original and pristine condition, or does it suffer from condition problems?

- Is the item genuine or is it a reproduction?

Only by identifying the item itself as well as the property's **relevant characteristics** (or, when necessary, making acceptable extraordinary assumptions regarding such relevant characteristics) can the appraiser produce credible appraisal results.

Degree of Inspection

The degree of inspection required to identify the relevant characteristics of the property is an aspect of the assignment's scope of work. It is the appraiser's responsibility to determine the assignment's scope of work and, therefore, the degree of inspection required to produce credible assignment results given the intended use of the report.

The appraiser's inspection is commonly limited to identifying characteristics that are readily apparent without the use of special testing or equipment, or of outside appraisers, consultants or experts. Having said that, for certain intended uses, such a degree of inspection may prove insufficient to produce credible results. In such cases, the scope of work must necessarily be expanded to make use of outside testing and/or experts in order to perform a degree of inspection felt necessary to yield results that would be credible when considered in the context of the intended use of the report.



The degree of inspection (or the source for obtaining the needed property-identifying information) will vary based on conditions of the assignment as well as on the intended use of the appraisal report. For instance, conditions might be such that the appraiser does not have access to the subject property (such as property destroyed in a fire) in which case the appraiser must rely on descriptive and identifying information provided by others. Or, the intended use of the appraisal report might be for the personal use of the client. Such a **Restricted Appraisal Report** that is intended to be used primarily by the client might permit only a cursory, brief inspection of the property be done since the client is already very familiar with the property's relevant characteristics.[157]

Relying on Information Provided by Others[158]

An appraiser may make use of any informational sources he or she feels reliable in order to identify the relevant characteristics of the property being appraised. While a personal inspection is one option, even it might not provide all the necessary identifying information required:

- The appraiser may also find it necessary to rely largely or even solely on client-provided information such as contact print photographs or digital images, verbal and/or written descriptions, or even client-drawn sketches in order to identify the relevant property characteristics of the subject property. Such reliance might be necessary when the subject property is no longer available for inspection as would be the case if it had been

[157] Effective with the 2020-2021 edition of USPAP, intended users other than the client are permitted when making use of Restricted Appraisal Reports, so long as intended users are identified by name and not merely by type.

[158] There are other discussions regarding assistance provided by other appraisers and specialists in the Chapter 5 section entitled *Using Specialist Appraisers and Other Colleagues*, in the Chapter 7 section entitled *Assignments Involving Assistance from Others* and in the Chapter 9 section entitled *More Than One Appraiser*.

destroyed in a fire, lost or stolen. Perhaps access to the subject property is denied the appraiser as might be the case in a nasty divorce. Perhaps the property is located a long distance from the appraiser and is too fragile or too expensive to ship, or it is potentially too valuable to risk shipping to a specialist appraiser for his or her hands-on, personal inspection. Conversely, perhaps having the appraiser travel to the property would be cost-prohibitive or unreasonable given the relatively low potential value of the subject property.



- The appraiser may need to additionally rely on input or reports from other professionals, consultants or appraisers, or from experts who have the necessary equipment to enable them to conduct special tests or observations, if required. Such assistance must be provided only by those the appraiser reasonably believes are reliable, and the appraiser must ensure that the degree of inspection and the detail of information they provide is sufficient for the appraiser to understand the property's relevant characteristics (as they are relevant to the type and definition of value and intended use of the appraisal) so that a credible appraisal can be developed.

  It is not necessary to employ an extraordinary assumption if the appraiser considers his or her source of information to be reliable and complete. Otherwise, an extraordinary assumption would be required for that information which is being used but which is deemed to be uncertain. (See 2020-2021 USPAP FAQ #243)

What happens if adequate information about the relevant property characteristics is not available through a personal inspection or from sources the appraiser believes are reliable? In such cases, appraisers would be required to decline or withdraw from the assignment unless they can either:

- Work with the client to modify the assignment conditions in order to expand the scope of work (often at additional cost) to include gathering the necessary information, or

- Use an extraordinary assumption about such information (but **only** if such assumptions would still result in credible assignment results being developed).

  As an example, consider an appraiser initially engaged to inspect and value two sets of 19th century sterling silver flatware that are the subject of litigation regarding an estate. Later in the appraisal process, the estate representative informs the appraiser that while one set is available for inspection, unfortunately, the second set is located in another state and cannot be made available for the appraiser's inspection until the court's deadline for the submission of the experts' reports has passed. In this case, the assignment conditions have changed causing the scope of work to change as well.

  As it stands, the appraiser does not have sufficient information to produce credible assignment results in the context of the intended use (litigation). The appraiser must consult with the client to determine a proper course of action. Options would include the appraisal of only the one set of flatware and/or the use an extraordinary assumption regarding the quality characteristics and value-relevant physical and economic characteristics of the second set.

Regardless, in all assignments the appraiser must ensure that the degree of his or her personal inspection or the amount and type of information otherwise obtained or assumed to be (including when a personal inspection is not possible) is sufficient to properly identify the quality

characteristics and relevant characteristics of the subject property. It is the appraiser's responsibility to identify these relevant characteristics to the extent he or she feels necessary in order to develop credible assignment results that meaningfully address the appraisal problem, that answer the value questions, and that meet the requirements of the client's stated intended use of the appraisal report.

Supplemental reading:[159]

- USPAP Advisory Opinion 2 *Inspection of Subject Property*

M&E Desktop and Field Appraisals

In the machinery & equipment discipline, an appraisal made without the benefit of a personal inspection is referred to as a **desktop appraisal**. A desktop appraisal is an opinion of the appropriately defined value type, expressed in terms of dollars, in which the opinion is generated from inventory lists, photographs and/or other informational materials supplied to the appraiser. In desktop appraisals, the subject property is evaluated and appraised without the benefit of an on-site inspection. A desktop opinion can be used for some situations but is not appropriate for many appraisal needs where an on-site inspection is required.

Conversely, in the machinery & equipment discipline, an appraisal assignment in which the subject property is personally inspected by the appraiser is referred to as a **field appraisal**. The appraiser gathers data in the field and reconciles it with the client-supplied information. Given its field inspection component, this type of analysis is much more detailed in scope than is a desktop appraisal.

Inspection Reporting Requirements

All appraisal reports must also contain sufficient information (usually placed in the scope of work statement) to enable the client and intended users to understand the extent of the personal inspection that was (or was not) performed by the signing appraiser. USPAP's Advisory Opinion 2 *Inspection of Subject Property* gives guidance regarding the importance of disclosing the degree to which the property was inspected:

> *Because of the infinite variability of inspections, it is important that the appraisal report clearly communicates the degree of the inspection in order for the report to be meaningful.*

In addition, appraisal reports must contain within the signed USPAP certification a statement similar to the below indicating whether or not the signing appraiser personally inspected the subject property.

> *I have (or have not) make a personal inspection of the property that is the subject of this report.*[160]

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[159] For related discussions see the Chapter 5 section entitled *Value Creators and Relevant Characteristics*, the Chapter 6 section entitled *Identification*, and the Chapter 10 section entitled *Describing Property*.
[160] See the Chapter 5 section entitled *Using Photographs to Appraise When a Hands-On Inspection is Not Possible* for examples as well as for a related discussion.

Intended Use of an Appraisal

Given its importance to the appraiser in determining value type and definition, and, subsequently, the scope of work, it is worthwhile to briefly revisit the issue of **intended use**.

Intended use is one of the six **assignment elements** of "problem identification"—the identification of which is the very first step in the appraisal process. And of those six assignment elements, perhaps the most significant is the requirement to identify **intended use**.

Intended use must be identified early in the appraisal process in order for the appraiser to make critical judgments in determining type and definition of value to be used as well as in determining an appropriate scope of work. In effect, then, it is the all-important intended use of an appraisal that drives the extent of research and analysis that an appraiser will have to employ in order to generate credible assignment results.

For instance, if the intended use is for a client wanting an orderly liquidation type of market value in order to sell a property at a fair price, the extent of research may not require the appraiser to conduct a personal, hands-on inspection of the subject property in order to identify its relevant property characteristics. Instead, the use of photographs might suffice. However, if the intended use is for equity determination in a divorce proceeding, then the extent of research required in order to generate credible assignment results would include the appraiser personally inspecting the subject property.

USPAP defines *Intended Use* as:

> *INTENDED USE: the use(s) of an appraiser's reported appraisal or appraisal review assignment results, as identified by the appraiser based on communication with the client at the time of the assignment.*[161]

Here are some examples of intended uses for appraisals:

- Selling or buying property
- Transit-related or insurance casualty loss damage claims
- Equitable distribution of property such as in the case of a divorce or estate division
- Acquiring insurance coverage
- Federal tax liability uses such as for noncash charitable contribution, casualty loss, or estate tax purposes
- Present worth of investment property
- Liquidation

[161] According the ASB's Q&A of June 27, 2018, "at the time of the assignment" refers to the time period commencing with the appraiser's agreement to perform a valuation service and ending with the completion of the assignment.

- Litigation
- Ad valorem property tax
- Bankruptcy
- Business mergers or sales
- Accounting to determine book value

The above is merely a brief introduction to intended uses. Various intended uses that are commonly encountered by the personal property appraiser are discussed in detail in Chapter 4.

Purpose of an Appraisal

In Chapter 1 we discussed the "Purpose of an **Assignment**" as it applies to two of the types of appraisal practice governed by USPAP—those two types being an **appraisal** and an **appraisal review**.

In this section, we will focus only on the purpose of an **appraisal**, since the vast majority of assignments the personal property appraiser will undertake are appraisals. Much less seldom does the personal property appraiser become involved with appraisal reviews.[162]

Every personal property appraisal assignment has a purpose or reason for which it is being done. In essence, the purpose of an appraisal assignment is what the appraiser is being asked to find out, e.g., to:

- Determine fair market value
- Determine orderly liquidation value
- Estimate replacement cost (comparable) on which to base an opinion of replacement value (comparable)
- Determine investment value for income-producing property

Each appraisal assignment has a purpose which calls upon the appraiser to develop and communicate an analysis, opinion, or conclusion not only to the **client** but also to any other known and appraiser-identified **intended users** of the report.

The purpose of the appraisal (when combined with the assignment's scope of work, the relevant characteristics of the property and the intended use of the appraisal) will direct the appraiser's choice of appraisal methodology and market research. For instance:

- If the purpose of the appraisal is to develop an opinion of replacement value for the intended use of the client obtaining insurance coverage, the appraiser will seek comparable replacement costs from within the retail market in which the client

[162] For more information on appraisal reviews see USPAP STANDARD 3 *Appraisal Review, Development* and USPAP STANDARD 4 *Appraisal Review, Reporting.*

commonly and most conveniently shops (i.e., the most relevant market) and in which the client could obtain a replacement property within a reasonable amount of time.

- If the purpose of the appraisal is to develop an opinion of fair market value for the intended use of establishing a noncash charitable contribution deduction, the appraiser will explore the **most common** market in which comparable properties have sold in the past to the **end consumer**.

- If the purpose of the appraisal is to develop an opinion of orderly liquidation value to establish asking prices for a client selling items at an upcoming weekend-long yard sale or estate sale, the appraiser will make use of his or her experience and knowledge of selling prices at similar types of sales. For most common and ordinary objects, such property is widely available and selling prices are relatively stable; nonetheless, the appraiser should be mindful of price fluctuations caused by geographic differences as well as the possibility of there being alternative markets at which a particular item might be sold more lucratively (such as via an auction house that specializes in the property type).

  In such assignments, the appraiser will frequently inform the client of the level of demand (high? low?) for certain objects so that the client will know to what extent to negotiate for certain objects that may also be available in competing markets such as at a local antique mall or at other yard/estate sales. The appraiser should also evaluate how motivated the client is to sell. Often the client wants to sell out completely and will even accept less than an orderly liquidation market value in order to do so. Sometimes this can only be achieved by saying "yes" to offers that are considerably lower than hoped for by the client or expected by the appraiser.

- If the purpose of the appraisal is for the appraiser to calculate the present worth of a series of net monetary returns for investment property (such as for leased property), the appraiser must select an appropriate yield rate and then make a present worth calculation to arrive at an opinion of investment value.[163]

Before establishing the appraisal purpose, the appraiser must first ascertain from the client the intended use of the appraisal. Once the intended use is known, the appraiser determines the value type and definition to be sought and then (only after completely identifying the appraisal problem) determines the scope of work necessary to develop credible assignment results. If questions arise regarding the purpose of the appraisal, the appraiser should consult with the client and possibly with other professionals who are advising the client such as the client's attorney or accountant in order to establish the proper purpose of the appraisal.

As mentioned earlier, an appraiser may be asked to offer opinions which can be categorized as **monetary** or **non-monetary** in nature.

- **Monetary** purposes are considered to be appraisals as they are opinions of value being provided by one holding him- or herself out to be an appraiser.

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[163] See the Chapter 1 section entitled *Purpose of an Assignment (Appraisals, Appraisal Reviews)* as well as the Chapter 3 section entitled *Income Approach* for related discussions.

Monetary purposes provide a numerical result of **either** a **single point value** or of a **range** of probable values. (Depending on the intended use of the appraisal, it is professionally acceptable for opinions of value to be expressed as a range of possibilities such as from "$4,500 to $6,000." An example might be when a client asks for an opinion of a suggested asking price for an item the client intends to sell.)

Monetary purposes include providing such opinions as to such commonly-encountered value types as:

- Market value
- Fair market value
- Fair value (for business assets and liabilities)
- Liquidation value (orderly or forced)
- Salvage value
- Scrap value
- Marketable cash value
- Net value
- Loss-of-value
- Present worth of forecasted earnings
- Replacement value based on replacement cost (new)
- Replacement value based on replacement cost (comparable)

- **Non-monetary** purposes are not appraisals as they do not offer opinions of value. Examples of non-monetary purposes of an assignment might include opinions on:

  - Authenticity, country or origin, authorship, date of manufacture or other historical information
  - Quality of construction
  - Grade or condition level
  - Existence of (or lack of) pre-existing damage for damage claims appraisals
  - Marketing advice for those wishing to sell
  - Remaining useful life of the property
  - Resource information such as restoration/conservation services, clubs, museums/libraries, periodicals, etc.
  - Estimation of age
  - Developing recommendations for alternative actions for the client's consideration such as donation to a museum in lieu of selling

  Since they are not appraisals, non-monetary purposes would not subject the appraiser to USPAP's personal property appraisal compliance requirements of STANDARDS 7 *Personal Property Appraisal, Development* and 8 *Personal Property Appraisal, Reporting*. However, non-monetary purposes could lead to an appraisal assignment which, by definition, includes developing an opinion of value, in which case compliance with STANDARDS 7 and 8 **would** be required.[164]

[164] See the Chapter 7 section entitled *When Must an Appraiser Comply with USPAP?* for a related discussion.

Valuing Ownership Rights

In Chapter 1 we mentioned that there are two schools of thought regarding value—objective and subjective. The objective school of thought measures value only by the cost to produce or to purchase the property. But the more modern, subjective school of thought recognizes the role that extrinsic factors have on value such as future benefits anticipated to accrue to the owner as a result of ownership.

Recall that these "ownership rights" (collectively referred to as a **bundle of rights**) can be defined as the monetary worth of the **benefits**, **satisfactions**, **responsibilities** and **liabilities** that are encompassed in owning a property and that are anticipated to accrue to the benefit/detriment of the owner.

The bundle of rights belongs exclusively to the rightful owner(s) of the property and ranges from the right to consume the property (such as with a can of beans) to the right to give the property away (such as donating a painting to a museum). Other rights within this "bundle of rights" might include the right to use, to display, to loan, to put in storage, and even the right to destroy or discard the property. The bundle of rights also includes responsibilities such as the need to maintain the property to protect others from harm which may be caused by the property or by use of the property.

Regarding leased equipment, for the duration of the agreement the bundle of rights includes the responsibility of the lessee to return a property to the lessor in good condition. This is an instance of the bundle of rights being shared, i.e., some of the rights are held by the lessor (the right of ownership) while some are held by the lessee (the right to make use of the property). This is also an example of what is known as a **fractional interest**, i.e., ownership of part but not all of the rights associated with a property. When you lease equipment, title to the equipment remains in your name, but you relinquish the right to make use of the equipment to the lessor for the duration of the lease.

It is the **ownership of these rights** which gives rise to **value**, i.e., the rights of ownership yield anticipated advantages (and possibly disadvantages) to the owner. The greater the anticipated future benefits that the owner expects to receive, the greater the value of that property is to **that** person. A collector of baseball cards will place great value on an elusive card needed to complete his or her collection. That collector will pay a higher price for the hard-to-find baseball card than will one who is not a collector. Once owned, the collector enjoys the benefit of self-satisfaction in having completed the collection and, possibly, the anticipated future benefit of realizing a monetary gain if the item or the collection is sold. In a similar fashion, the owners of investment property such as royalty-producing art work (the image of which is licensed for use on T-shirts, coffee mugs, etc.) can anticipate future income and possibly a profit upon sale of the original.[165]

The key to understanding value is to understand these concepts of **rights of ownership** and **anticipated future benefits** associated with that ownership—be the ownership total or only a fractional interest.

[165] See the Chapter 6 section entitled *Principle of Anticipation.*

Property Interests

Part-and-parcel to ownership rights is the concept of **property interests** which refers to an individual's level and type of ownership in a property. Normally, an individual's property interest is 100%, i.e., he or she owns all of the property and its bundle of rights, but at times an item of property has more than one owner, in which case the ownership rights are considered to be shared.

USPAP Standards Rule 7-2(e) requires that (as part of the problem identification process) the appraiser identify the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal including the identity of the item, its quality characteristics, its value-relevant physical and economic characteristics, any known restrictions or encumbrances (such as constraints on exhibiting or selling a donated work of art), and the **ownership interest to be valued**. The right or rights to the property might be owned in part or might be owned in full. When assigning value, these property interests and whether or not they are shared are an important consideration. When determining value, **ownership rights matter** in that value to the individual will be proportional to the percentage of ownership rights owned by that individual.

What happens if property interests are shared? Consider a co-owned painting that is being valued so that the two owners can donate it to a museum. Assume one person owns 75% of the property and the other owns 25%. (These are termed **undivided interests**. See below.) When donated, one owner is entitled to a tax deduction of 75% of the painting's fair market value while the owner with a minority interest is entitled to a deduction of only 25% of the painting's fair market value. The amount of their respective deductible amounts is usually directly proportional to the amount of anticipated benefits (lowered taxes) they each expect to enjoy come tax time. Again, normally property interests are 100% (i.e., there is usually but a single owner) in which case this issue of shared interest becomes moot.

As mentioned in the above section, the term **fractional interest** refers to an ownership interest in only a part or percentage of the entire rights associated with a property. As an example, one party might own the land, but another party might own the rights to harvest trees from the land or to the land's mining rights.

A related term is "**undivided" interest** which means an ownership right to use and possess all of a property that is shared among co-owners, with no one co-owner having exclusive rights to any particular portion of the property, i.e., the property is "undivided." For example, five siblings own a high-value painting inherited from their parents. Assume each co-owner has an equal, undivided interest in the property. All decisions as to the use, display, possession and disposition of the painting are made collectively by all co-owners. No one co-owner may unilaterally sell the painting. But should the co-owners agree to sell the painting and it sold for a gain, each co-owner would include an equal share of the gain in his/her own personal income tax return.

Notice that while a **fractional interest** identifies ownership of certain parts of the **rights** associated with a property (i.e., the property **rights** are "divided"), an **undivided interest** considers the property as a whole with ownership of the whole property shared by all co-owners, such as a vacation property that is owned by a group of close friends who share in its use.

Be sure to not confuse **fractional interest** with the term **fractional appraisal** which is discussed in Chapter 5 in the section entitled *Fractional Appraisals.*[166]

- **"Property" Refers to Future Rights When Determining Value**

  When determining value, it is this property interest (and the rights associated therewith) that is being **valued** as opposed to the property itself. In other words, when valuing an item or when determining its present worth, the term "property" is **used to describe the future rights** the owner(s) anticipates will accrue due to ownership. When appraised, value is divided among owners in proportion to their individual **property interest**.

- **"Property" Refers to the Item Itself When Estimating Replacement Cost**

  On the other hand**, when estimating replacement cost (e.g., in order to develop an opinion of replacement value)**, **ownership rights are irrelevant**: an estimate of replacement cost necessitates the assumption that a whole replacement property will be procured and not merely a fraction of the property. When estimating the replacement cost of a property, the term "property" is **used to describe the property itself** without regard to ownership rights, property interest or percent interest. In other words, when estimating the cost to replace an item, the whole, undivided property is considered—and not merely a portion of the property. Thus, when estimating replacement cost, ownership rights are irrelevant.

  Consider the same co-owned painting as mentioned above. That one person owns 75% while the other owns only 25% is irrelevant when the appraiser is required to develop an opinion of replacement cost so that the two co-owners can acquire insurance coverage. In such cases, the property is considered in its entirety despite having co-owners who share in the benefits of ownership.

Rights of Ownership Not Always Clear Cut

With **real estate**, rights of ownership are a legal matter having to do with deeds, zoning restrictions, building codes, etc.—all of which must be researched and documented in the real property appraiser's report. Generally speaking, however, the rights of ownership of **personal** property are normally straight forward, but that is not to say that rights of ownership of personal property are always clear cut.

There is no ambiguity as to property interest when reporting that the value of a painting is $6,500. It is implied that ownership is not divided, and that the owner is entitled to all rights associated with owning the painting. But such is not always the case, as with leased property where the actual division of rights can only be ascertained by a review of the lease agreement. Nor is it the case with co-owned property where ownership in a property is shared among two or more parties. In such cases, the rights of ownership are also shared, and value must be divided according to the fractional interest held by each party.

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[166] See also the Chapter 5 section entitled *Valuation Discounts* for a discussion of **discounts to value** that are associated with fractional interests

Reproduction Rights

When appraising certain types of contemporary fine art, the appraiser should be aware that copyright laws might exist which entitle the original artist to reproduction rights associated with the work regardless of who owns title to the work itself. In other words, while the appraiser's client may own a work of art, the client may not own the rights to **reproduce** the work. This is a good example of **fractional interests**. Each party (the owner of the painting and the artist) owns some of the rights but not all of the rights associated with the property. In other words, each owns a fractional interest in the work.

It is important that the appraiser be made aware when property interest is shared so that only the client's property interest is included in the appraisal and no other's property interests are included. As noted, USPAP requires that you state in the appraisal report the ownership interest being appraised.

Visual Artists Rights Act

The Federal Visual Artists Rights Act (VARA) was enacted and made part of the Copyright Act in 1990. Other than as concerning an appraisal assignment related to a VARA claim, the act has minimal impact on the appraiser but is worth mentioning briefly. VARA's intent is to protect the **post-sale rights** of artists who have created certain types of fine art. For more about VARA visit artslaw.org/vara.htm.

Contraband Property

Appraisers should be aware of the existence of laws governing the possession and/or trafficking in certain types of property we refer to as "contraband." Contraband is that property for which it is illegal to transfer ownership through commerce (as opposed to gifting or bequeathing an item). In some cases, it might even be illegal to possess the property, or to transport it across state lines, but it is almost always illegal to "commercialize" the property, i.e., to sell, purchase, barter, etc. Contraband property generally falls into two categories—cultural property (i.e., artifacts recovered from a past (or present) civilization including bones and burial items), and flora and fauna.[167]

Three Types of Property

Recall that personal property is any tangible object which is normally considered by the general public as being "personal," e.g., household furnishings, artwork, antiques, gems & jewelry, collectibles, machinery and equipment, restaurant equipment, clothing, automobiles, etc. Personal property is normally portable and considered to be any and all property that is not classified as real estate (i.e., land and improvements upon that land).[168]

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[167] For a more detailed discussion of the issue of contraband property, see the section entitled *Laws Affecting Possession of or Trade in Contraband Property* in Chapter 13.
[168] Effective with the 2020-2021 edition of USPAP, *Personal Property* now also includes "intangible articles" such as digital archives of music, writings, art or images that were "born digital."

All personal property can be categorized as either:

1. **Investment property**,

2. **Marketable non-investment property** (this is the type of property normally appraised by personal property appraisers), or

3. **Non-marketable non-investment property**[169]

Understanding that there are three primary types of personal property allows us to understand how the three approaches to value are applied, and also to understand the **primary** kinds of value that are normally associated with each of these three primary types of property.

To best understand the three primary types of property, it is necessary to first better define what is meant by **investment** and **non-investment** properties as well as **marketable** and **non-marketable** property.

Investment vs. Non-Investment Property

> **Investment property** is that property initially acquired or held **with** the anticipation of generating income. The expected future benefit associated with the ownership of investment property is a stream of income, and, possibly, a profit upon eventual sale of the property itself. Examples of investment property include machinery at an equipment rental store, the assets of a movie prop rental company, original paintings from which limited edition prints are made, or an antiques dealer's inventory. Investment property is usually appraised in association with an appraisal of a business enterprise and intangible assets by those with expertise in accounting and business valuations and not by the personal property appraiser.
>
> **Non-investment property** is that property acquired or held **without** the anticipation of income. This is not to say that if sold the non-investment property might not generate a capital gains which might be subject to a federal capital gains tax, but the property was not initially acquired or held with the intent of generating income. The expected future benefit associated with the ownership of non-investment property is in the form of use, consumption, or future sale. Non-investment property such as household furniture and goods, privately-owned antiques or decorative and fine art is the type of property that is typically valued by the personal property appraiser.

Marketable vs. Non-Marketable Property

> Property can be either **marketable** or **non-marketable**. Whether or not a property is marketable depends on if it is commonly bought or sold. The question of marketability hinges on whether or not like items are offered for sale as well as on whether or not there are potential buyers. An old, worn mattresses are non-marketable since virtually no one wants to buy them. Artifacts taken from Native American grave sites or items made from parts of endangered flora or fauna are non-marketable because marketing such items is illegal. Vintage jewelry, on the other hand, is a class of property that is marketable since

[169] Babcock, FASA, Henry A. Appraisal Principles and Procedures, Washington, DC: American Society of Appraisers, 1994

there are often buyers and sellers of jewelry. In terms of real property, homes are highly marketable; however, schools, museums, churches and libraries are seldom sold. As such, they would be considered non-marketable property.

Most items of property that the personal property appraiser encounters are bought and sold by many buyers/sellers in many marketplaces. As such, they are considered to be marketable properties. Included are household goods, vehicles, antiques and collectibles, art, etc. Upon sale, title transfers for such an item, but how about property for which title cannot legally transfer?

Transferability of Title

The marketability of a property also hinges on whether or not title can be legally transferred (i.e., the ability of the property to legally change ownership). Title can be transferred in several ways including by sale, exchange, gift, inheritance, etc. If property cannot be legally transferred, however, one could be excused for thinking that it would have no demand and, therefore, would be without a market and so be classified as non-marketable. Normally that is the case, but it is not so simple—consider the **contraband property** mentioned earlier. As with most property, there's a marketplace even for contraband property—its market is euphemistically referred to as the "discrete" market.[170]

So, how does one develop an opinion of the value of contraband property? It is a difficult question to answer. Some contend that since contraband property cannot be bought, sold, possessed, etc. that it has no market so has no reason to ever require an appraisal. As a result, they contend, contraband property has no value at all. But given the known activity within the "black" or "discrete" market, is that really the case?

While there are many prohibitions on trading or transporting certain Native American items or items made from parts of endangered species, there are some allowances for **donating** such items to qualifying organizations. Often donated items have to be of a certain age or have been acquired before a certain date (such as prior to the species being added to an endangered species list) in order to qualify for acquisition by a museum. Such donated items may require appraisals for income tax deduction purposes. In addition, at times contraband property will be found in a decedent's estate, in which case its fair market value may need to be determined for estate tax purposes.

How does one go about ascertaining value for property for which no public sales records exist and which are not being offered (at least publicly) for sale?

In discussion with the Art Appraisal Services (AAS) department of the IRS[171], it is apparent that valuing contraband property is a tricky business. But there are three options

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[170] See the section entitled *Laws Affecting Possession of or Trade in Contraband Property* in Chapter 13 for a related discussion regarding contraband property.

[171] AAS provides advice and assistance to the Internal Revenue Service, other Government agencies, and taxpayers on valuation questions arising in connection with personal property and works of art. The AAS is available to provide appraisal service on works of art including paintings, drawings, prints, sculptures, antiques, ceramics, decorative arts, textiles, carpets, silver, rare manuscripts, antiquities, ethnographic art, collectibles, classic automobiles, and historical memorabilia.

for the appraiser to pursue in order to ascertain the fair market value of contraband property:

- Seek consummated sales which have occurred outside the U.S. where it may not be illegal to buy and sell such items.

- Seek the advice of experts such as well-experienced dealers in American Indian artifacts who can opine on the value level of a contraband property assuming that a sale was permitted by law.

- Seek similar (perhaps new) items which **are** legal to buy and sell and extrapolate from their market data a value for the subject property (easier said than done!)

Types of Property and Their Approaches to Value

While from the above discussion it is not hard to understand that most property encountered by personal property appraisers will be classified as **marketable non-investment** property, having an understanding of all three primary types of property and their respective primary valuation methods is critical. (The three approaches to valuing these three property types are discussed in detail in the following section.)

- **Investment property** is property acquired with the expectation that the property will generate income for its owner either in the form of a stream of monetary returns or upon a one-time, lump-sum sale such as the inventory of an equipment leasing company. Investment property has primarily **investment value**. For investment property, use the **income approach** to develop an opinion of investment value.

- **Marketable non-investment property** is that property that is marketable (i.e., it is typically bought and sold) but that is held **without** the expectation of earning income. Most items of personal property we appraise fall within this category. Marketable non-investment property has primarily **market value** for certain intended uses of the report, but for other intended uses it has primarily **replacement value**. It does not have investment value since it was not acquired with the expectation of earning income for its owner. An example is a privately-owned toy collection that is purchased for the enjoyment of use as opposed to being purchased as business inventory in order to resell to generate income. The most common approaches to valuing marketable non-investment property are by use of the:

  a. **Sales comparison approach** if determining **market value** or **replacement value (comparable)**, or

  b. **Cost approach** if determining **replacement value (new)**.

- **Non-marketable non-investment property** (a.k.a. “service” property) is property that is non-marketable (i.e., it is not typically bought and sold) and is not held with the expectation of earning income. There are not many good personal property examples of service property, but an outdoor sculpture is one. Examples in real property are more numerous and might include a church, museum, library or school. Service property has only **owner value** which consists of non-monetary satisfactions that the owner anticipates will accrue by virtue of ownership. Service property does not have market value since it

is not typically bought and sold, nor does it have investment value since it is not acquired with the expectation of generating income.

Service property is valued using the cost approach. For service property, appraisals are normally only needed for the intended use of acquiring insurance coverage, in which case the cost approach would yield replacement value (new)—an amount which would be required to rebuild should that become necessary.

Whether the property is marketable or non-marketable, and whether it is investment or non-investment results in three classifications of property—each with its own **primary** types of value. Each type of primary value, then, is measured by use of one of the three approaches to value: income approach, sales comparison approach, or cost approach.

The Three Approaches to Determining Value

The **three approaches** to value are described in detail in the following sections, but here is a brief introduction:

1. **Sales comparison approach**: A method for developing an opinion of value which compares the subject property with **comparable** properties which have sold in the past or, if none are found, with comparable properties currently being offered for sale. Value adjustments are made to account for differences in prevailing market conditions as well as for differences in the characteristics relevant to value and marketability between the subject properties and the comparable properties.

2. **Cost approach**: A method for developing an opinion of value only for properties which can be suitably replaced with a brand-new property. The cost approach deducts accumulated depreciation from the cost to reproduce, produce or purchase a brand-new replacement property. The result is referred to as **depreciated replacement cost**.

3. **Income approach**: A method for developing an opinion of value for income-producing property by calculating the present worth of an anticipated future monetary benefit such as an anticipated ongoing stream of income.

Two Types of Value Opinions

Recall that when it comes to marketable non-investment property (which is the type of property the personal property appraiser typically encounters), the appraiser might be called upon to develop two types of monetary opinions: replacement value and value types other than replacement value.

In the below sections, we will first discuss replacement value, followed by a discussion of types of value other than replacement value. We will then have a better understanding of the issues necessary to properly understand the three approaches to value—discussions about which will then follow.

Opinions of Replacement Value

Estimating an objective **replacement cost (new** or **comparable)** on which to base a subjective opinion of **replacement value (new** or **comparable)**[172] takes into consideration the intended user's perspective to the exclusion of the perspective of marketplace participants.

When developing an opinion of replacement **value** (either new or comparable) based on the replacement **cost** (either new or comparable, respectively), the appraiser proceeds from the user's perspective (as opposed to the perspective of the average market participant). The appraiser will seek market data regarding suitable replacement items from within the **most relevant** marketplace—but from the user's perspective. What constitutes the most relevant marketplace from the perspective of the **user**?

The most relevant marketplace from the user's perspective is normally:

1. The retail market in which the client most customarily and conveniently makes his or her purchases, and

2. The retail market in which replacement properties can be obtained within a reasonable amount of time.

Such user-specific data originates from a market that reflects the user's needs which might very well be in opposition to what the typical market participant would be expected to do. For instance, the user might be entitled by his insurance contract to rush out and purchase a replacement from a posh retail store at full price while the typical market participant might wait to make a purchase at the monthly recurring $50%-off sale.

Opinions of replacement value for items which are to be replaced with a brand-new item (such as a flat screen television) are typically developed by means of the cost approach to value, while opinions of replacement value for items which can be replaced **only** with comparable and not-new properties (such as vintage baseball cards) are typically developed by means of the sales comparison approach.

Opinions of Primary Value Types Developed by Appraisers Other Than Replacement Value

- Developing opinions of other types of **value** such as market value, fair market value, orderly or forced liquidation value, marketable cash value, net value, fair value, salvage value or scrap value take into consideration the perspective of typical market participants to the exclusion of the user's perspective.

- When developing opinions of value other than replacement value such as fair market value or some other type of market value, which approach(es) to value that the appraiser uses will depend on the primary type of property being appraised (i.e., investment property, marketable non-investment property or non-marketable non-investment property.) To one degree or another, all three approaches require research and analysis of market data and market events (e.g., supply, demand, consummated sales, asking prices, actual sales, signed leases, anticipated returns, condition of the market, etc.), and

[172] See the Chapter 3 section entitled *Replacement Cost + Judgement = Replacement Value.*

USPAP's Standards Rules 8-2(a)(viii) and 2(b)(viii) require that all three approaches at the very least be **considered** for each assignment. However (as you will learn later), while each of the three approaches to value must be **considered**, not all approaches are applicable to every appraisal assignment, and only those approaches that are applicable need be **developed** by the appraiser.

- For real property, one or more approaches to value are often applicable to an appraisal assignment and, indeed, multiple approaches at times serve to reinforce one another. However, for personal property appraising, the single most relevant valuation approach is normally chosen from the three. This single approach is typically used to the exclusion of the other two approaches—and for personal property that approach of choice is normally the **sales comparison approach** or the **cost approach**. Having said that, on occasion the income approach might be applicable if the subject property is an income-producing, investment property.[173]

Sales Comparison Approach to Value

The vast majority of appraisal practitioners refer to this valuation approach as the **sales comparison approach**. Over the years, however, it has been referred to variously as the market data approach, the comparative or comparable sales approach, the comparison method, the market comparison approach, and probably in other ways as well. For our purposes we, like USPAP, will use the term "sales comparison approach."

The **traditional** underlying concept of the sales comparison approach bases a subject property's value on the selling price of similar (comparable) properties that have sold in the past. (The closer the date of sale is to the effective date of the appraisal the better.) The value of the subject property is adjusted upwards or downwards according to the presence or absence of its relevant characteristics as compared to those characteristics present in the comparable property. In addition to the intrinsic relevant characteristics present or lacking in the comparable property, adjustments should also be made for the presence or absence of extrinsic differences between the properties such as a change in value due to the passage of time since the comparable property was sold, or the availability of a warranty, delivery, credit, proof of authenticity, certificate of grade or quality, etc.

In Appraisal Principles and Procedures[174], Babcock states that in using this approach to value, the appraiser is, *"...relying on the assumption...that, in the period prior to the valuation date, buyers did weigh the value elements in certain proportions, whether they did it subconsciously or not, and buyers will continue, at least for the immediate future, to weigh the value elements in the same proportions."*

This **traditional** definition of the sales comparison approach is designed to consider (as a basis for developing an opinion of value) only **consummated** sales data occurring **prior to** the date of valuation. It is a comparative procedure which draws indicators of value from **actual** past transactions. But is there more to this approach?

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[173] See the table at the end of this Chapter in the section entitled *Tying it Together.*
[174] Babcock, FASA, Henry A. Appraisal Principles and Procedures, Washington, DC: American Society of Appraisers, 1994

More Than Meets the Eye

As with many terms employed in personal property appraisal theory, there is no total consensus on the above minimalistic **traditional definition** of the sales comparison approach which, by the way, has its roots deep in the traditional theory of real property appraising. There are those who argue that for certain intended uses the sales comparison approach should be more encompassing by including the additional comparative of **asking prices** for bona fide listings being offered for sale.

The current trend among leading professional personal property appraisal organizations and personal property appraisal principles textbook authors is to regard the sales comparison approach to value as one which makes use of 1) only past consummated sales of comparable properties for certain intended uses (e.g., donation and estate tax appraisals) **as well as** 2) which makes use of **asking prices** for comparable items currently being offered for sale within the appropriate market for yet other intended uses (e.g., acquiring insurance coverage or loan collateral purposes), or for assignments in which past comparable sales cannot be located.[175]

As extended, then:

> ***Depending on the type of assignment, the sales comparison approach could base a subject property's value on the selling price of comparable properties that have sold in the past, or on the asking prices of comparable items currently being offered for sale at retail.***
>
> An example of the former might be using consummated sales as a basis for an opinion of the fair market value of a valuable painting being donated to a local museum. An example of the latter might be the use of dealer asking prices as a basis for an opinion of replacement value (comparable) of a vintage Tiffany lamp being appraised in order for the owner to obtain insurance coverage.

Note that the consummated sales used to develop the opinion of value must have occurred within the most appropriate market which might be auction sales (local, regional, national or international), past dealer sales or even past yard sales depending on the property type and the intended use of the report.[176] The value of the subject property is adjusted upwards or downwards according to the presence or absence of its relevant characteristics as compared to those characteristics present in the comparable property.

For purposes of this book, we will make use of the above extended definition of the sales comparison approach.

Sales Comparison Approach Applicable to Depreciable or Appreciable Property

The sales comparison approach to value is an appropriate approach to use when developing certain types of value for certain intended uses for both depreciable as well as appreciable property.

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[175] The International Valuation Standards Council uses the term “direct market comparison approach.”
[176] The determination of the most appropriate market to research is the responsibility of the appraiser and is one of the most critical steps of the entire appraisal process.

Depreciable Property

The sales comparison approach can be used to determine a type of **market value** (fair market value, orderly liquidation value, marketable cash value, etc.) or even of forced liquidation value for depreciable property. Examples are televisions, bicycles, children's play clothes, or living room drapes.[177]

Note that unlike furniture and household goods, not all depreciable property can be suitably replaced with brand-new property. An example would be a collection of 35mm slides taken during a family vacation to Disneyland in the 1960s. Another example would be crafts you hand-made as a child during summer camp. With such types of depreciable property, the only approach to ascertaining value (in the rare assignment that would require developing opinions of value for such property types) is by means of the sales comparison approach, e.g., what do comparable items sell for in the most appropriate market such as on eBay, at yard sales or at a local estate auction. Usually not for very much!

Appreciable Property

The sales comparison approach is also applicable when developing an opinion of value for appreciable personal property which is normally **not** capable of being suitably replaced with a brand-new property. Examples are antiques, fine art, vintage automobiles, or items with provenance or other attributes which would prevent a brand-new item from being an acceptable, suitable replacement. For appreciable property, the sales comparison approach can be used to develop all types of value including:

- Market value
- Fair market value
- Marketable cash value
- Net value
- Orderly liquidation value
- Forced liquidation value
- Loss-of-value
- Salvage value
- Scrap value
- Replacement value (comparable)

Consummated Sales or Asking Prices: Which do I Use When Developing the Sales Comparison Approach?

Use Consummated Sales …

Use the sales comparison approach in conjunction with **consummated sales** to develop opinions of a type of **market value** such as fair market value or marketable cash value, salvage value or scrap value. Use consummated sales also for **orderly or forced liquidation values**.

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[177] Note that since a depreciable property can normally be suitably replaced with a brand-new property, use the **cost approach** (not the sales comparison approach) as explained in the following section when developing an opinion of its **replacement value** (either new or reproduction).

- The sales comparison approach using consummated sales can be employed to determine a type of market value for not only depreciable property such as vehicles, equipment, used clothing and common household goods but also for valuing fine antiques, art and collectibles.

- While the sales comparison approach using consummated sales can be used to determine the value of rare items for which there few comparable sales records, it is most useful where there is a very active market and many past sales records such as can be found for items which were mass produced so were originally identical to the subject property such as cars, sterling silver flatware, G.I. Joe action figures, American Flyer toy trains and Barbie dolls. In such cases, sufficient market data can typically be found for prices realized as a result of consummated sales, either through auction or sold by a dealer.

- Be sure to consider consummated sales only from within what you consider to be the **most appropriate** marketplace such as at auction, from a dealer, or from a yard sale.[178]

- But what happens if no such consummated sales of comparable properties can be located? When no comparable past sales can be located, use dealer asking prices as the basis for your opinion of value. Such asking prices would reflect the upper limit on what the market value could possibly be. The appraiser will need to use his or her best judgment to make adjust the asking price so that the final value opinion best reflects what prudent buyers would pay within the relevant marketplace.

- Assignments for which the use of past sales are applicable include, for example, when developing an opinion of fair market value for appraisals having as the intended use tax liability purposes such as donation, estate and gift tax appraisals.

Use Asking Prices …

Use the sales comparison approach in conjunction with seller **asking prices** to develop opinions of a type of **replacement value (comparable)** for antiques and other appreciable property (i.e., items which cannot be suitably replaced with a brand-new property) such as when the intended use of the appraisal is for acquiring insurance coverage of a collection of vintage clocks. (For property which **can** be suitably replaced with a brand-new item, make use of the cost approach to develop opinions of replacement value (new).)

- But what happens if no such comparable properties can be located currently being offered for sale by dealers? When no comparable properties are being offered for sale, instead of dealer asking prices, make use of consummated sales of comparable properties on which to base an opinion of replacement value (comparable). In such a scenario, market data reflecting past dealer sales or past auction sales (as opposed to current dealer asking prices) would be the best (and, indeed, the only) indication available at the time on which to base an opinion of what the insured would probably have to pay in the future should the subject property need to be replaced.

- When using past auction prices realized instead of current dealer asking prices as a basis for an opinion of replacement value (comparable), the appraiser might need to apply his

[178] It is not a violation of USPAP to use a recent sale of the subject property itself as a one of the comparable sales when using the sales comparison approach to value. (2020-2021 USPAP FAQ #259)

or her past experience and judgment to make upward adjustments to the auction hammer prices of comparable properties in order to better reflect the actual cost which clients might have to pay should they be required to purchase a replacement at retail.

- The need to develop an opinion of replacement value (comparable) is most often associated with appraisal assignments having the intended use of either acquiring insurance coverage or settling a damage or casualty loss claim. Appraisals used in litigation could also make use of replacement value (comparable) for appreciable property.

Considerations When Using Asking Prices

When making use of **consummated sales** of comparable properties as a basis for value, the consummated sale prices are, of themselves, sufficiently indicative of market value (assuming an arm's length transaction in an open market). But when making use of **asking prices** as a basis for value (such as is often done when developing an opinion of replacement value (new or comparable) for insurance appraisals), those asking prices must be further analyzed to ensure that there is a reasonable bona fide relationship between asking price and value. Of concern are issues such as:

- **Excessive Asking Price**

  Some asking prices are inflated by the seller with the hopes of making a windfall profit or with the intention of reducing the asking price in order to induce a sale. Clearly such inflated asking prices are not indicative of value. The buyer would be wise to go elsewhere and purchase a comparable property for a price that is more representative of the amount for which most prudent and knowledgeable market participants would typically buy/sell the item. Avoid making use of inflated asking prices as a basis for an opinion of value.

- **Relevant Marketplace and Reasonable Time**

  When preparing a replacement value insurance coverage appraisal making use of asking prices for comparable properties, it is common practice to make use of markets in which the client typically shops in order to arrive at replacement values which are relevant to the client's lifestyle and shopping habits. Some insureds customarily purchase replacement items at nearby high-end retail establishments (that might provide service, warranties and delivery) despite the fact that comparable properties can be purchased elsewhere (perhaps online) for less. On the other hand, replacement via an online purchase can be relevant as well if doing so is convenient for the insured.

  In addition, clients typically expect to be able to replace property within a reasonable amount of time. Data to support an opinion of replacement value should include that from retail sources that are convenient to the client and from which acquisition of a replacement property can be expected within a reasonable length of time.

Most Applicable in Active Market

As noted, the sales comparison approach is most applicable within an active market which provides a sufficient quantity of comparable sales data. This occurs most often for the types of

personal property for which either identical or comparable items were produced in large enough numbers so that there is an active market with numerous transactions taking place. Its use becomes more subjective with one-of-a-kind or very scarce items where past sales records or current asking prices for identical or comparable properties are few or non-existent. Some items (such as an installed outdoor art sculpture or an unusual, custom-made piece of equipment) might be unique and market data for comparable properties so scarce that the other methods of valuation (such as the cost approach) must be explored as possible candidates for arriving at value.

However, it is often impossible to find an **exact** comparable property that has sold in the recent past or which is currently for sale on which to base an opinion of value. When this happens, it is necessary to consider the sales of **similar** comparable properties. As properties are often not identical, any price paid for a property being compared to the subject property must be adjusted upwards or downwards to account for differences in market conditions at the time of sale, and in relevant property characteristics such as quality, size, authorship, features, condition, aesthetic appeal, etc. Adjustments in price may also be required for differences in warranty, service, financing, or for changes in value due to the passing of time. There are no fixed percentages or mathematical formulas to calculate these differences. These adjustments are a function of appraiser experience, knowledge of the market, judgment and available data.

When using the sales comparison approach, as much market data as necessary to support a credible opinion should be used. While individual sales may deviate from the normal pattern of the market, an adequate number of sales should tend to reflect the usual pattern of buyers and sellers. If there is a sufficiently active market, a pattern will usually emerge among the comparable properties analyzed. Having said that, on occasion the appraiser is often hard pressed to find even two or three comparable sales, much less a large enough number to form a pattern!

The sales price pattern of a sufficient number of comparable sales is a good reflection of the value of the subject property. Appraisers should always carefully analyze comparable sales that are intended to be used as a basis for an opinion of a type of market value to ensure that they are, indeed, reflective of the actions of the majority of informed buyers and sellers in the marketplace. Analysis of sales may reveal anomalies (e.g., a sale to an uninformed buyer, or a sale made under duress) which must be ignored in the final analysis when developing opinions of market value.

Valuation Principles Used with the Sales Comparison Approach

The sales comparison approach involves a number of valuation principles including the following:

- Principle of Substitution which states that a buyer will not pay more for a particular item of property than the cost of a property that is equally desirable, i.e., a property which will provide the desired results, benefits or satisfactions.

- Principle of Contribution which, for personal property, recognizes that the presence of a particular component, attribute or feature may add to the value of the whole property while the absence of the component, attribute or feature may detract from the value of the whole.

- Principle of Highest and Best Use states that the highest and best use of real property is that reasonable and legal use of a property that will result in its greatest value within a particular marketplace. Since personal property is portable and can be sold in various

geographic areas, personal property appraising recognizes a similar but slightly differing concept, i.e., the concept that alternative property uses as well as alternate marketplaces can affect value. Not all personal property appraisers use the term "highest and best use" to describe this analysis, nor is its use mandated by USPAP.

- Principle of Qualitative Ranking states that an opinion of relative quality (and hence relative value) of the subject property can be determined by comparing the relevant property characteristics of the subject property with comparable characteristics of other properties that are being used as a standard of comparison.

- Principle of Supply and Demand is all-pervasive and governs all market transactions. The principle relates the supply available for purchase at a particular price to the consumer demand for that product at that price. When supply and demand are at equilibrium, i.e., when supply equals demand, price remains steady and the market is said to be in **balance** or at **equilibrium**.[179]

Machinery and Equipment and the Sales Comparison Approach

Note that the methodology for appraising machinery and equipment (M&E), like any other sort of personal property, is largely dependent on the intended use of the appraisal report and on the purpose of the appraisal, i.e., what it is that the appraiser is seeking. For M&E, those uses/purposes might include orderly liquidation of a defunct business (either through a negotiated price or through auction), forced liquidation values for collateral purposes, or market value-in-place for a going concern. Factors of concern which are unique when valuing M&E might include:

- Whether or not the assets are part of a going concern, in which case the value of the assets in aggregate will be greater than if valued individually.

- Available marketing time is also of concern when liquidating. A higher price will normally be realized if one has a longer time to sell. The quicker the seller needs his money, the less cash the seller is likely to receive.

- M&E often involves assembly and installation along with the associated costs for freight, electrical work, rigging, piping, labor, etc. The cost of assembly/installation must be factored into a final opinion of value.

For machinery and equipment, the sales comparison approach looks at recent consummated sales of machines that are similar to the subject property being appraised. Should there be insufficient past sales data available, using this approach, the appraiser may also look at dealer asking prices for comparable pieces of equipment as well. Regardless, when exact machinery and equipment comparable sales are not found, adjustments must be made to the selling or asking prices to account for differences between the comparable and subject properties. Here are several of the factors that are considered when comparing the subject machine to a comparable: manufacturer, model, effective age, condition, miles/hours, capacity, optional accessories, time of year of sale, type of sale (private? auction?), warranty and location.

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[179] See the Chapter 6 section entitled *Valuation Principles* for an expanded discussion regarding valuation principles.

If the equipment is already installed and contributing to a going concern, appraisers may need to adjust the sales or offering prices of the comparable properties upwards to account for the direct costs (labor for installation, freight, utility hook-ups, foundations, sales tax, etc.) as well as the indirect costs (administration, licenses and other typical acquisition expenses) to properly reflect the **value-in-place** of the subject property.

As with appreciable property such as antiques, when used to value machinery and equipment, the sales comparison approach is the most reliable of the three approaches when there is sufficient data available of similar machinery and equipment that has sold in the past or that is currently being offered for sale. The sales comparison approach to value is not typically used when the asset is "unique." With unique property (in which case past sales data of comparable properties is nonexistent), the use of one or both of the other two approaches to value (cost or income) must be considered.

The used equipment market consists of dealers, auctions, and public and private sales, all of which are potential sources for market data used by the appraiser as a basis for an opinion of value. Subscription-based databases of past sales are also typically used for developing opinions of value for machinery and equipment.

USPAP and the Sales Comparison Approach

USPAP SR 7-4(a) guidelines state that when making use of the sales comparison approach, an appraiser must:

> *"...analyze such comparable sales data as are available to indicate a value conclusion."*

Note that USPAP makes no mention of whether the sales comparison approach makes use of the traditional definition of the sales comparison approach (which considers only consummated sales) or the extended definition (which considers past consummated sales **as well as** current asking prices). As noted earlier, for purposes of this book, we make use of the latter, extended, more liberal definition.

Cost Approach to Value

The aforementioned sales comparison approach is commonly used to develop opinions of a type of market value or of replacement value (comparable) for personal property capable of being replaced only with a comparable (not-new) property such as a vintage Tiffany lamp or a 19th century tall case clock. But when developing an opinion of the replacement value (new) of a type of property that **can be** suitably replaced **only** with a new property (such as a sofa, flat screen TV, a lawn mower or a unique, custom-made piece of furniture), make use of the cost approach.

The full name of this approach is the "depreciated replacement cost" approach, and this approach is often used when determining replacement costs of properties that are either:

- Replaceable with a brand-new property (this, of course, excludes "antiques" and most other appreciable property), or

- Not commonly traded, i.e., special-purpose business assets or commissioned personal property (e.g., a family portrait) that does not enjoy an active resale market. In such

situations, the cost approach is generally the only quasi-reliable approach to value. (If there was an active resale market, in all probability the sales comparison approach would be used.)

The Cost Approach as Viewed by the IVSC

The International Valuation Standards Council (ivsc.org) views the cost approach based on the above-mentioned Principle of Substitution. It sates:

> *The cost approach estimates value using the economic principle that a buyer will pay no more for an asset than the cost to obtain an asset of equal utility,* ***whether by purchase or by construction****.* (IVSC) [emphasis added]

Cost Approach Most Useful with Depreciable Property that is Replaceable with New

The cost approach is often used to determine the replacement cost (which is the basis for a developed opinion of replacement value) of common depreciable property such as everyday clothing and household goods. Claims adjusters often make use of the cost approach and resulting replacement costs from which to calculate actual cash value[180] for the settlement of casualty loss claims.[181]

The cost approach to value measures worth based on the cost to acquire (through purchase or construction, depending on the property type, i.e., can a replacement be **purchased** or must a replacement be **manufactured**?) an acceptable **new** substitute property and then deducting, **if necessary**, for all forms of depreciation including age-life depreciation as well as accrued depreciation[182], [183] existing in the subject property.

Under the cost approach, the **cost to acquire** a "brand-new" property is considered. Acquisition for purposes of the cost approach to valuation is accomplished by either:

- **Purchasing** a new property (replacement cost (new)), or
- **Constructing** a new property (replacement cost (reproduction)). This is accomplished by either 1) **reproducing** an exact, new replica of the property, or 2) **producing** a suitable, new replacement property which, while not an exact duplicate, has the same utility and function as the original.

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[180] Often defined as replacement cost (new) less depreciation.
[181] Refer to Chapter 4's section entitled *Actual Cash Value (ACV) Insurance Policy* for a discussion of calculating the ACV (replacement cost (new) less depreciation) for a large number of common items of depreciable personal property (such as might be lost as a result of a hurricane or large house fire). The discussion includes mention of **Maloney's ACV Calculators (**Excel spreadsheets which make use of the depreciation rates contained in the *Joint Military/Industry Table of Weights and Depreciation Guide)* (JMITWDG)). Copies of **Maloney's ACV Calculators** (one .zip file containing three calculators: Basic, Premium and Premium Plus) are available at davidmaloney.com/store/. A copy of the *JMITWDG* can be downloaded in PDF format from the same website.
[182] "Accrued depreciation" includes physical deterioration as well as various types of obsolescence.
[183] See the Chapter 5 section entitled *Two Types of Depreciation for Personal Property* for discussions regarding age-life depreciation and accrued depreciation.

From the replacement cost (new or reproduction), an amount is then deducted to account for the diminution in value to the subject property due to all forms of depreciation present, i.e., due to **age-life depreciation as well as accrued depreciation**, regardless of whether the accrued depreciation resulted from physical deterioration, or functional, technical or economic obsolescence. When all such losses in value are subtracted from replacement cost (new or reproduction), the result is the subject property's **depreciated replacement cost**.

Note that while the cost approach, by definition, applies depreciation, at times that depreciation equates to zero or can be assumed to be zero. Examples would include:

- When valuing a property for which replacement with a NEW property is **expected** and warranted, such as in the case of a homeowner having a full replacement value coverage policy, or

- When valuing a subject property that is itself brand-new and in like-new condition, thus warranting the application of zero depreciation.

The cost approach is based on the proposition that an informed purchaser would pay no more to acquire a brand-new property (assuming the subject property is the type of property capable of being replaced with a new item) than the cost of acquiring a new substitute property having the same utility and serving the same purpose to its owner as the subject property did before its loss or damage.

As are the other two approaches to value, the theory behind the cost approach to valuing items of personal property has its roots in real property appraising. Traditionally, when making use of the cost approach, a real property appraiser estimates the value of the real property by adding the worth of the land to the value of the improvements which have been added (i.e., buildings, etc.) and then subtracting an amount reflective of the total accumulated depreciation of those improvements. In other words, the cost approach to value of real property combines an estimate of land value (land, by the way, is not depreciable) with an estimate of the depreciated replacement cost of new improvements.

In a similar fashion, the cost approach can be applied to valuing items of personal property, but only for those properties that are **capable of being replaced with a new item**. This is a cost approach concept that pertains only to personal property. It has no parallel when appraising real property. For the intended use of a homeowner acquiring insurance coverage for his or her home, a real property appraiser will value an 18th century Colonial home for $1.8M based on the current cost to replace the 200-year old structure with a **brand-new** home. Such a methodology is not employed when appraising **personal** property. No consideration would be given to the possibility of replacing an 18th century highly-carved Philadelphia mahogany Chippendale armchair with newly-made Baker Furniture Co. reproduction. Why? Because the new chair would not be considered a suitable replacement for a chair having the age and other relevant characteristics as the original. Only a comparable 18th century chair having similar relevant characteristics to the subject property would be considered as a suitable replacement.

Examples of personal property that are candidates for application of the cost approach might include certain special-use machinery and equipment, a large outdoor concrete art sculpture, an oil portrait of Aunt Betty, a custom-made chopper motorcycle, a hand-made entertainment center, a unique stained-glass transom, an unusual wall sculpture the owner purchased from the artist while on vacation in San Diego, or even everyday clothing and household goods. For such items,

by researching a retail source such as a department store or by contacting a qualified manufacturer or craftsman (possibly even the original artist if still living), the appraiser can ascertain the current buyer's cost that would be incurred if a replacement property had to be purchased or constructed.

Recall that the definition of replacement value mandates replacement with a property of **like condition**. If the subject property was in like-new condition (or if it is expected that the subject property will be replaced with a new property such as would be required by a homeowner's replacement value insurance policy), the cost approach as it reflects the cost to purchase or construct another "like new" property is adequate and stands alone.

However, should the subject property not have been in like-new condition (but rather had suffered from some level of age-life and/or accrued depreciation[184] such as would used household goods or a used piece of machinery) and is **not** expected to be replaced with a new property then the cost approach requires that a downward adjustment in value be applied in order to account for all forms of depreciation. Such would be the case for a homeowner having an actual cash value insurance policy or in the case of litigation where the measure of damages is actual cash value.

With the exception of certain types of appreciable property such as an item made by a living artist (e.g., an oil portrait or a piece of contemporary jewelry), the cost approach to value is normally applicable **only to depreciable items** of personal property for which replacement with a suitable **NEW** property is both acceptable and expected. As noted above, it would be illogical to even contemplate the application of the cost approach when valuing those types of personal property which, for reasons such as sentimentality, antiquity or provenance, have relevant characteristics which would prevent replacement with a brand-new property.

Valuation Principles Used with the Cost Approach

The cost approach makes use of the Principle of Substitution which states that a buyer will not pay more for a particular items of property than the cost of a property that is equally desirable, i.e., a property which will provide the desired results, benefits or satisfactions.[185]

Machinery and Equipment and the Cost Approach

The cost approach to developing an opinion of replacement value for insurance purposes for machinery and equipment involves the appraiser developing an opinion of the replacement value (new or reproduction) of the asset and then subtracting an amount to reflect worth that has been lost due to all forms of depreciation including age-life depreciation and accrued depreciation (i.e., physical deterioration and economic, functional or technical obsolescence). If a suitable replacement is not currently available through purchase or reproduction, the appraiser should consider making use of the property's original cost[186] adjusted to current dollars in order to most accurately reflect the current replacement cost (new).

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[184] See the Chapter 5 section entitled *Two Types of Depreciation for Personal Property*.
[185] See the Chapter 6 section entitled *Valuation Principles* for an expanded discussion regarding valuation principles.
[186] Original cost is defined as the current owner's cost of acquisition.

If the equipment is already installed and contributing to a going concern and the client requests an opinion of value that would reflect the equipment's value-in-place, the appraiser will need to adjust the sales or offering prices of the comparable properties being used as a basis for value upwards to account for the direct costs (labor for installation, freight, utility hook-ups, foundations, sales tax, etc.) as well as the indirect costs (administration, licenses and other typical acquisition expenses) to properly reflect the value-in-place of the subject property.

Caution: The reliability of the cost approach to value is affected by the accuracy of the replacement cost data used and by the accuracy of the estimate of subject property's accumulated depreciation —either of which might be a challenge to determine and support.

Note that the cost approach is normally the most appropriate approach to developing an opinion of replacement value for insurance purposes; however, make use of the sales comparison approach to determine the property's current market value for such intended uses as donation, estate, sale, acquisition, loss-of-value determination, or litigation where the measure of damages is a type of market value.

USPAP and the Cost Approach

USPAP defines the term *Cost* as:



COST: the actual or estimated amount of money required to create, reproduce, replace or obtain a property.

While USPAP does not define the term "obtain," it is generally assumed that the term includes the option to also acquire a property by **purchase**. Thus, cost is either the cost to construct a property, or, alternatively, the amount required to purchase a property. This assumption is supported by the above-mentioned IVSC definition of *cost approach*:

> *The cost approach estimates value using the economic principle that a buyer will pay no more for an asset than the cost to obtain an asset of equal utility,* ***whether by purchase or by construction****. (IVSC)* [emphasis added]

USPAP SR 7-4(b) establishes guidelines for the appraiser when making use of the cost approach. When the cost approach is used, the appraiser must:

> *(i) analyze such comparable cost data as are available to estimate the cost new of the property; and*
>
> *(ii) analyze such comparable data as are available to estimate the difference between cost new and the present worth of the property (accrued depreciation).*[187]

[187] Note that USPAP makes use here of the term "accrued" depreciation to reflect the totality of all forms of depreciation. Instead of "accrued," I use the term "accumulated" depreciation. I reserve the use of the term "accrued" to mean depreciation caused by physical deterioration plus depreciation caused by the various obsolescences. In this book, the term "accumulated" depreciation refers to all forms of depreciation including the aggregate of **age-life** depreciation plus **accrued** depreciation. See the Chapter 5 section entitled *Two Types of Depreciation for Personal Property* for discussions regarding age-life depreciation and accrued depreciation.

The above guidelines require the appraiser to analyze all available comparable cost data in order to determine the cost of a new property. In doing so, the appraiser would analyze not only the cost to have a new property made (if appropriate or practical) but also the cost to purchase a new property as well. The process also requires that the appraiser estimate the subject property's depreciation (if any). Deducting depreciation from cost new results in a cost approach-based opinion of value.

Market Value: Using Cost Approach vs. Sales Comparison Approach

Note that while the sales comparison approach is the best way to determine market value types, the use of the cost approach might prove helpful in the appraiser's market value analysis, but only with the understanding that the cost approach does not itself result in a type of market value, rather it merely sets the **uppermost limit** on what the market value of the property could possibly be. This point stems from the Principle of Substitution which states that a buyer will not pay more for a property than the cost of acquiring a new property of like utility.

Since it incorporates the **user's** perspective, the cost approach is, at its very core, an inappropriate method for determining a type of market value which, by definition, requires the use of the **market** perspective instead. While the cost approach can be used for determining replacement value (new) and reproduction cost for intended uses such as insurance (but only for property types capable of being suitably replaced with a brand-new property), it is not an appropriate approach to conclude market value since the cost approach does not consider the actions of typical marketplace participants.

It is worth repeating that the only connection between the cost approach and market value is that the cost approach (i.e., the cost to purchase or manufacture a brand-new property) sets the **uppermost** limit of what market value could possibly be—in this regard, the cost approach serves merely as a reference point so has only an incidental use in the analysis of an assignment involving the development of an opinion of market value.

Income Approach to Value

The income approach is an approach to valuing **only** investment property, i.e., property that is obtained or held with the anticipation of generating income. Antiques and collectibles and other forms of personal property typically found in households **are not** investment property (they are **marketable non-investment** property), so the income approach to valuation would not apply to appraisals done on household contents and personal effects. Its use, however, is particularly common for commercial and/or rental property, and for corporate inventory and other business interests which are expected to generate income for the owner. The income approach, therefore, is most often made use of by real property appraisers, business valuators and accountants. It is seldom used by the personal property appraiser who is most often involved with appraising **non**-investment property.

The income approach to valuation is the process of determining the **investment value** of an income-producing property, i.e., of **investment property**, through capitalization[188] of the future annual net income (anticipated gross annual income less anticipated annual expenses) expected to be produced by the property during its remaining useful life.

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[188] To "capitalize" means to compute the **present worth** of an anticipated stream of income, or of an anticipated future lump-sum payment.

An investor who purchases income-producing property is essentially trading present dollars for the expectation of receiving future dollars. The income approach uses mathematical procedures to analyze the property's capacity to generate future streams of income and, through capitalization, convert those streams of income into an indication of present worth.

As with any type of property, the income approach is based on the assumption that the value of the property is proportional to the anticipated benefits to be derived from its ownership. This approach, therefore, is predicated on the understanding that the investment value of a given investment property is proportional to:

- The **income** that the property is expected to generate over time,
- The value of the property at the end of the period (i.e., its **reversionary** value), and
- The **security** of that income stream over time (A high-risk investment property would involve a higher capitalization rate than a relatively risk-free property.)

The most traditional technique used in converting a future net income stream to a present worth is through capitalization (i.e., calculating the present worth of the anticipated income) making use of a capitalization rate commensurate with the risks inherent in ownership of the property and relative to the rate of return offered by other competing investments. The capitalization rate is a rate of return which is desired (such as a lessor leasing investment property to the lessee), or it is a rate of return which can be anticipated as a return on investment (such as an investor calculating a purchase price for an investment property).

Step 1—Determine Anticipated Income

The first step in applying the income approach requires a determination of the anticipated income from the asset. Income can be in the form of a series of returns (such as monthly or annually for a specified period of time) or it can be in the form of a single lump-sum payment at some point in the future.

Examples of income-producing personal property include property leased as movie props, or original works of art reproduced as prints, or as art on T-shirts or coffee mugs as a source of income for museum or historical society gift shops or some other royalty-generating outlet. In addition, print artists make duplicate prints from the original matrix such as a lino cut; thus, the matrix itself is considered to be income-producing property.

Probably the most common method for determining the anticipated income is to use the actual income figures for the previous years—often from the prior three to five years. Actual income from comparable investment properties can be used if the subject property itself has no history of generating income. For property that is the subject of a lease agreement, the anticipated income can be calculated from the terms of the lease.

Step 2—Calculate Present Worth

The second step in applying the income approach is the calculation of the present worth of the anticipated future net income based on the assignment of an appropriate capitalization rate. The capitalization rate is the anticipated rate of return that the investor desires to receive considering

the risks involved. Here is a simple example that makes use of a common present worth formula which incorporates the compounding of interest:

The present worth of $100 to be received one year from now (i.e., term=1) at 5% interest rate is:

Present worth = future amount/$(1 + \text{interest rate})^{\text{term}}$ = $100/(1 + .05)^1$ = **$95.23**

The present worth of $100 to be received two years from now (i.e., term=2) at 5% interest rate is:

Present worth = future amount/$(1 + \text{interest rate})^{\text{term}}$ = $100/(1 + .05)^2$ = **$90.70**

So, the present worth of $100 to be received one year from now at 5% interest is $95.23. Similarly, the present worth of $100 to be received two years from now is $90.70. In theory, then, in the latter example one should be equally satisfied to receive either $90.70 today or to receive $100 two years from now.

The interest rate used in the above example is the risk-free interest rate. If there are risks involved in an investment this can be reflected through the use of a risk premium, i.e., a higher rate of interest.

Step 3—Add Present Worth to Reversionary Value

The investment value of the investment property is then calculated by adding the present worth of the anticipated future income stream to the property's expected reversionary value, i.e., to what the market value of the property is expected to be at the end of the investment period.

Machinery and Equipment and the Income Approach

While it is usually the primary approach to value used when valuing a business in which case an entire enterprise is being valued based on its past and projected earnings, the income approach is not an approach to value that is typically used by machinery and equipment appraisers. The income approach would require that the appraiser develop an opinion of a property's value based of an anticipated stream of income resulting from the contribution being made by the subject property to the going concern. This is an extremely challenging undertaking. The reason is that it is difficult to calculate the future benefit that a specific machine or piece of equipment will bring to a going concern since there are so many factors including supporting assets (both tangible and intangible) which could possibly affect future corporate earnings.

USPAP requires that all approaches (including the income approach) be "considered" in every appraisal assignment; however, it is often found that the income approach is not as reliable as the sales comparison approach or the cost approach. **So, while considered, the income approach is seldom actually developed by the personal property appraiser.**

USPAP and the Income Approach

USPAP SR 7-4(c) guidelines state that when making use of the income approach, an appraiser must:

(i) analyze such comparable data as are available to estimate the market income of the property:

(ii) analyze such comparable operating expense data as are available to estimate the operating expenses of the property;

(iii) analyze such comparable data as are available to estimate rates of capitalization and/or rates of discount; and

(iv) base projections of future income and expenses on reasonably clear and appropriate evidence.

Comment: An appraiser must, in developing income and expense statements and cash flow projections, weigh historical information and trends, current supply and demand factors affecting such trends, and competition.

Valuation Principles Used with the Income Approach

The Principal of Anticipation is fundamental to the income approach. Because value is created by the expectation of benefits to be derived in the future, investment value may be defined as the present worth of all rights to those future benefits. The income approach considers anticipated future benefits the owner (or prospective purchaser) expects to receive as a result of owning the property and estimates their present worth in order to calculate investment value.[189]

Tying it Together

The below table illustrates the preceding discussion regarding the relationship between the primary **type of property**, the **types of primary value** for each, and the **valuation approaches** typically used for each type of property.

While USPAP requires the appraiser to **consider** all three approaches to value (regardless of the type of property being appraised), the appraiser need **only develop** those approaches which will result in meaningful and credible assignment results. The real property appraiser often makes use of more than one approach to value, but the personal property appraiser normally uses only one approach to value to the exclusion of the other two.

With that in mind, make note of the following three important takeaways from the below table regarding the primary approaches to value to be used by personal property appraisers when developing opinions of value for marketable non-investment property (which is the type of property most frequently appraised by personal property appraisers):

- Use the sales comparison approach to develop opinions of market value or market value types, or forced liquidation value for any type of property—whether the property is new or not-new, or whether it is appreciable or depreciable.

- Use the sales comparison approach to develop opinions of replacement value (comparable) for antiques and other such appreciable personal property which cannot be suitably replaced with a brand-new property. This methodology is most often used for

[189] See the Chapter 6 section entitled *Valuation Principles* for an expanded discussion.

insurance-related appraisals—either acquiring insurance coverage or settling insurance disputes.

- Use the cost approach to develop opinions of replacement value (new or reproduction) for those properties which can be suitably replaced with a brand-new item. This methodology is most often used for insurance-related appraisals—either acquiring insurance coverage or settling insurance disputes.

Type of property	Type of value sought	Valuation approach to use
Investment property	**Investment value** (a monetary return anticipated to be realized over a period of time)	Use the **income approach** which calculates the present worth of anticipated future returns. This will measure the anticipated return as well as the expected reversionary value*.
Marketable non-investment property (of most interest to the personal property appraiser)	**Market value types** (the most likely amount a knowledgeable buyer will pay or a knowledgeable seller will accept for the property) **or forced liquidation value.** Neither under duress to act.	Use the **sales comparison approach** which bases the value of the subject property on past sales or, if none found, on asking prices for comparable properties within the relevant marketplace (regardless of whether subject property is appreciable or depreciable).
	Replacement value (comparable) based on the cost to replace with a comparable but not-new property. Primarily used for insurance related appraisals.	Use the **sales comparison approach** (uses asking prices or, if none found, past sales prices) to estimate the buyer's cost to obtain (through **purchase** only) a comparable, not-new property. Used for properties that cannot be suitably replaced with a brand-new item, e.g., antiques.
	Replacement value (new or reproduction) based on the cost to replace with a brand-new property. Primarily used for insurance-related appraisals.	Use the **cost approach** to estimate the expected buyer's cost to obtain (through **purchase** or **construction**) a brand-new property. Used **only** for properties that **can** be suitably replaced with a brand-new property.
Non-marketable non-investment property (a.k.a., service property)	**Owner value** (non-monetary personal satisfactions)	Owner value cannot be measured as it is in the mind of the owner. But for service property which is replaceable, the **cost approach** is used to determine an appropriate value for obtaining insurance coverage.
© David J. Maloney		* Reversionary value is the value remaining in an investment property after a specified number of returns have been received.

Chapter 4: Appraisal Principles Part III (Intended Uses)

As noted in Chapter 1, the **intended use(s)** of an appraisal is the way in which the client and other intended users will use the appraiser's reported opinions, conclusions or analyses. Intended use is identified by the appraiser during the initial client interview or at the time of the assignment and is perhaps the most significant assignment element contained in the **problem identification** phase (Step 1) of the Appraisal Process.

Examples of intended uses for appraisals include:

- "Peace of Mind" sales advisory for a client who is buying or selling property
- Transit-related or insurance casualty loss and damage claims
- Equitable distribution of property such as in the case of a divorce, estate division, and business dissolution
- Acquiring insurance coverage
- Federal tax liability uses such as noncash charitable donation appraisals, or estate tax and gift tax appraisals
- Present worth of investment property
- Bankruptcy
- Liquidation
- State inheritance and state estate taxes
- Trust management
- Litigation
- Ad valorem property tax
- Collateralized loans
- Corporate financial reporting

Appraisals for Buying or Selling

Sellers often require appraisals to ascertain a fair asking price, and buyers seek appraisals for the peace of mind of knowing they are not paying too much for a property. I refer to these as **sales advisory** appraisals.

Some items of property do not really require appraisals since identical comparable items are commonly sold and records of sale prices are public knowledge. Examples include commodities, publicly traded securities, and new mass-produced goods such as kitchen appliances. In such

cases, buyer and sellers can determine a fair asking price by themselves without the assistance of an appraiser.

But for items for which sales data for comparable properties are not readily available or for which understanding the relevant marketplace or the relevant characteristics of the property involved is a complex matter, an appraisal can act as a guide for sellers. By the same token, an appraisal can serve to give a potential purchaser the peace of mind that the price he or she intends to pay is within reason.

When valuing property in connection with an anticipated purchase or sale, the appraiser determines the item's orderly liquidation value which is a type of **market value**. Selling at orderly liquidation value ensures that the seller gets full value, and that the buyer does not pay more or less than the property is worth. Remember, though, that market value assumes an allowance for reasonable exposure time and this might vary as the conditions of sale vary. For instance, if the seller is anxious to sell, the property's value (given the limited time to expose the property to an open market) will be lower than the value would be for a scenario in which adequate time to market the property was available. As a result, sales advisory appraisals often require the appraiser to provide multiple values each of which would be dependent on differing scenarios such as orderly liquidation or forced liquidation, and the differing marketing times associated with each.[190]

Appraisals for Transit-Related or Insurance Casualty Loss and Damage

Appraisers are frequently called upon to assist in the settlement of insurance casualty loss or damage claims such as fire or theft losses. They might also be asked to assist with transit-related loss or damage claims such as might occur as a consequence of a household move. The appraiser often plays a role in gathering and providing information that will be essential to the equitable settlement of damage and loss claims submitted to insurance and moving companies by claimants.

Appraisers may be called by the shipper (the **shipper** is the owner of the property that is being moved) to assist in documenting and supporting their claim for damages. Appraisers may also be contacted by adjusters who work for insurance companies or for national or local household goods moving companies (variously referred to as the **carrier** or **mover**). Appraisers are also contacted by attorneys who get involved when the claimant sues over an unacceptable proposed claims settlement.

Identify the Client

For the intended use of damage claims, the identification of the client is of particular importance. The **client** is the party or parties who engage an appraiser (by employment or contract) in a specific assignment. The client identified in the appraisal is the party or parties with whom the appraiser has an appraiser-client relationship in the related assignment and may be an individual,

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[190] For related discussions, see the section entitled *Exposure Time and Marketing Time* in Chapter 2, and see the section entitled *Liquidation Appraisals* later in this chapter for more information regarding the subject of selling property. See also the section entitled *Multi-Market, Multi-Value Appraisals* in later in this Chapter.

group or entity. The client most often communicates directly with the appraiser; however, at times, the client communicates with the appraiser through an agent, such as the client's attorney.

The client could be the insurance company or the moving company's claims adjuster. On the other hand, the client might be shipper, i.e., the owner of the property. The appraiser-client relationship carries with it significant ramifications regarding trust, confidentiality, disclosure, and liability. The appraiser has that relationship only with the identified client and with no other, thus the significance of clearly identifying the client.

Purpose of a Damage Claims Appraisal

While the primary purpose of a damage claims appraisal is typically to provide an opinion of value (usually fair market value, replacement value or actual cash value), damage claims appraisals may require the appraiser to provide other types of information as well. Such assignments may require the appraiser to note detail not normally required in an appraisal, such as the existence of pre-existing damage including even minor and common every day wear and tear.

Depending on the direction provided by the client, the appraiser may be asked to:

- Provide an opinion of pre-incident fair market value, i.e., the value just prior to the alleged damage having occurred
- Estimate the salvage value of the property, i.e., the value of the item in its damaged condition
- Provide an estimate of replacement value based on the item's replacement cost (new) or replacement cost (comparable)[191]
- If considering constructing a replacement property, provide an estimate of the replacement value based on the cost to **reproduce** an identical replacement property, or to **produce** a suitable equivalent (but not identical) replacement property
- Provide actual cash value which could be defined as either fair market value or as replacement cost (new) less depreciation
- Provide an estimate of repair costs (this is most often obtained from third-party repair firms if the appraiser is not also a repairperson)
- Fully photo-document the claimed damages
- Document observed new transit-related damages (TRD)
- Document observed pre-existing damages (PED)
- Provide an opinion as to whether or not the claimed damage is new TRD or old PED

[191] Which to provide would depend on whether or not the item can be suitably replaced with a brand-new property.

- Provide an opinion of whether or not the damaged item might suffer from a loss-of-value once repaired
- Advise client as to whether the subject property is appreciating or depreciating property
- Estimate the object's fair market value 1) before repairs have been completed but assuming that professional repairs will be completed in the future, and/or 2) after repairs have been completed
- Provide an estimate of loss-of-value after the item has been repaired
- Provide contact information for a qualified repairperson
- Provide source information for suitable replacement properties or replacement parts
- Advise of most lucrative means to dispose of salvaged property
- Document statements or settlement preferences made by parties present at the time of inspection
- Provide opinions as to whether a claim should be accepted or denied
- Provide opinions as to the most appropriate method of settlement, e.g., repair, replacement, cash out, appearance allowance, goodwill allowance

Remember that it is the responsibility of the appraiser to include such information in the appraisal report as directed by the client and no other. Communicate closely with the client to properly identify the appraisal problem and the needs of the client. Doing so will help ensure that all necessary information will be gathered and presented in the appraisal report.

Claims Settlement Options

The variety of information that the appraiser might be called upon to provide is necessitated by the various options the insurance company or a moving company have to settle a claim. Methods of settlement are specified in the claimant's insurance contract or the moving company's service agreement with the shipper. Settlement options normally include:

- **Repair the item**. When authorized, repairs are required to be done only on the claimed damage—not to restore the item to a like-new condition. To conduct repairs over and above those required to repair the claimed damage would result in **betterment** which is an insurance term that refers to the incremental increase in fair market value due to a repair or replacement which renders the property more valuable than it was prior to damage or loss. Technically, the insurance or moving company could deduct the amount of betterment from the overall claims settlement.
- **Replace the item** with an exact duplicate or a suitable substitute property. If this option is used, the insurance/moving company normally has the right to take possession of the damaged item for salvage.

- **Cash the item out** for an agreed value, replacement cost, actual cash value, or another amount as stipulated in the insurance company contract or by the moving company limit of liability, and take possession of the salvage.

- **Offer an appearance allowance**.

- **Offer a goodwill allowance**.

- **Offer a loss-of-value** for repaired items.

- Any combination of the above.

Gathering Information While on Site

An appraiser must understand the type of information needed by those involved with settling a claim, e.g., the insured, insurance adjusters, the household goods moving industry, in order that those entities can make fair, equitable and expeditious claims settlements.

While repairmen are often the first line of defense used by adjusters, when it involves appreciating types of property such as antiques, art and collectibles, appraisers are often better equipped to provide identifications, values and alternative suggestions for settlement, such as by replacement via specialty replacement sources or restoration by a qualified restorer. Damage claims adjusters need appraisers who are capable of not only assigning values but also of making inspections and providing detailed reports of their findings and recommendations. As usual, appraisers must not be advocates. All parties involved want an appraiser's professional, independent opinion to be based only on facts and to be without bias.

Damage and loss claims appraisals require attention to detail not normally required of appraisers undertaking other types of appraisal assignments having a different intended use. For damage and loss claims appraisals, the existence of normal wear and tear, the item's condition prior to damage including any old damages or repairs, or pre-existing alterations or replacements must be noted to ensure clarity and understandability of the report. Close observations of scratches, chips, and remnants can give clues helpful in establishing liability, pre-existing condition, and even the identity of the item itself.

Here are points that you should consider while on site to ensure that you gather all the information necessary to help settle a claim. Quality information up front will pay dividends in the end.



- Take good photographs. “A picture is worth a thousand words.” Never has this been truer and more applicable than in our industry where one man's deep gouge is another man's light scratch. Photographs are critical to assisting the adjuster (as well as the claimant and possibly a judge and jury) in understanding the claim. Take close-up images of all claimed damages. Photographs should be keyed to the item numbers listed in the appraisal report. Digital images can also be embedded into the final appraisal report in-line with the item’s description. Additional high-resolution image files can also be provided to the client on a thumb drive, via email attachments or by using a personal cloud storage service such as Dropbox, if need be.

- For moving claims, photograph and describe the condition of damaged packing crates and cartons if they show evidence of poor packing or improper handling—assuming, of course, that they are still available and have not yet been discarded. Look for broken pieces of household goods among the wrapping materials. Locate all broken pieces and place them near the parent piece and photograph together. Locating the pieces for the insurance or moving company will also be assistance if a decision needs to be made regarding whether or not to repair the item.

- Give a complete written description of the item including its dimensions, age, material, country of origin, maker's marks, etc. For appliances, machinery and electronics be sure to list the manufacturer's name, model and even part number if available.

- Describe the new damage that is being claimed. Be exact. List and visually locate and photograph each scratch, dent, chip, etc. being claimed. When through, ask, “Is that all?” When the shipper answers “Yes,” any remaining damage can be assumed to be pre-existing. (Note: Do not assume, however, that all damage noted by the shipper is new damage. It might be old, pre-existing damage that the shipper simply did not recall as having been there prior to the move. Conversely, you may notice new damage that the shipper overlooked. Call it to the shipper’s attention and include it your report.)

- Describe in detail all pre-existing damages or lack thereof whether or not acknowledged as such by the shipper. The existence of pre-existing damage might be useful in minimizing any claimed loss-of-value. On the other hand, the lack of pre-existing damage might be useful in substantiating a claimed loss-of-value. A fresh break on an otherwise undamaged porcelain figurine might cause a significant loss-of-value, but if the figurine already has two pre-existing chips, the amount of the loss-of-value due to the new damage after it has been professionally repaired would probably be minimal.

- In addition to describing in detail any pre-existing damages, note any old repairs which have been made to items being claimed as having suffered new damages. Likewise, note if the piece shows no pre-existing damages or repairs. To find pre-existing damage or old repairs use a strong natural light as well as magnification and blacklight (Ultraviolet, UV) to detect telltale signs such as old glue remnants, minute hairline cracks, previous repairs, dirt lodged in old breaks, etc. The existence or lack of pre-existing damages and old repairs can have a significant effect on potential loss-of-value, so look closely!

- For moving claims, compare the claimed damages against the pre-move inventory (taken at origin for interstate moves) to help identify pre-existing damages and to help determine if the claimed damage is transit-related or whether it was pre-existing.

- Never divulge your findings or anticipated recommendations, or provide your report to anyone except your client unless instructed to do otherwise by your client or the client’s agent.

- When your client is the moving or insurance company, never negotiate a settlement with the shipper/insured or make statements which might obligate or “appear” to obligate the moving or insurance company unless you have been directed to do so.

- At all times be sympathetic, understanding and willing to listen when dealing with any property owner involved with the claims process. Remember, they have just suffered a

loss to their personal property which may have had significant monetary and/or sentimental value to them.

Preparing Your Damage Claims Report

Prepare your report to satisfy the needs of the **client**. The client might be the claimant (i.e., the shipper or the insured) or the client might be the insurance company or moving company claims adjuster. Include in your report the information the client has instructed you to include, but be sure to include enough information so that your report is clear, understandable and non-misleading.

- State your opinion as to whether or not the new damage might cause loss-of-value after repairs have been completed. Be sure to consider all pre-existing damages and repairs, as well as the general rule that **depreciating** items **won't** suffer loss-of-value **if** professionally repaired while **appreciating** items **may** suffer a loss-of-value **despite** the quality of the repair.[192]

- Carriers normally do not pay for damages which were caused by inherent vice or ambient conditions (e.g., humidity, gravity, temperature, and light). Inherent vice is defined as a characteristic of an object, material or property that results in its tending to deteriorate or destroy itself. These hidden or latent defects over time or when combined with the ambient conditions of humidity, temperature, light and gravity, contribute to the property damaging itself.

  Examples of inherent vice include paint fading, wood splitting and metal rusting. State in your report your opinion as to whether or not the claimed damage can be attributed to ambient conditions or inherent vice. For example, the old, collectible newspapers becoming yellow and brittle are due to the acid content of the paper and not to improper storage. Or that the crack in the table top can be attributed to the wood drying out and not to improper handling by the movers.[193]

- Determine and state the market value, replacement cost, salvage value or other defined value of the item in its **damaged** condition. Determine the same for the item in its **pre-damage** condition making use of the hypothetical condition that the property is in undamaged condition. All valuations should be assigned as of the date of loss (which becomes the effective date of the appraisal), not necessarily the date of inspection or the date of your report.

- Was the item part of a pair or set and was that pair or set complete and all in good condition prior to the move? Describe the entire pair or set as well as the damaged pieces, e.g., *"64-piece porcelain Noritake dinnerware service for eight in the Azalea pattern with one 10 ¼" dinner plate broken in half."* Make a statement as to how the damage impacts the total value of the pair or set. The value of a complete set is often, but not always, more than the sum of the values of the individual pieces.

- If asked to do so, make recommendations for cash-out, repair, or replacement. When damage is very minor or if it is not economically feasible to repair the piece yet the item still remains very functional (e.g., a scratch on the side of a plastic case of a 19" flat

[192] See the section entitled *Loss-of-Value* in Chapter 2 for an expanded discussion regarding this issue.
[193] See below for an expanded discussion regarding inherent vice.

screen television), make a recommendation for an appearance allowance.

- If asked to do so, make third-party referrals for repair sources, cleaning services, replacement sources, etc. as necessary based on your findings. Be sure to include the complete name of your point-of-contact, company name, complete address, phone, fax, email and website. Remember, the adjuster may be many miles away and not familiar with the businesses in your area. This information would be critical so they can initiate a contact and start the settlement process, be it by repair, restoration or replacement.

- If your client is the moving or insurance company, record any statements made by the shipper/insured including settlement preferences, statements of attempted repairs done by the shipper, inconsistencies, or any other comments made by the shipper that might be helpful in establishing the validity of the claim or in reaching an equitable settlement. Confirm any third-party repair estimates that were provided to you by the shipper/insured.

- For large claims, categorize your written report for clarity. List your recommendations for items according to categories such as:

    - Items requiring cash-out
    - Items requiring replacement
    - Items requiring repair
    - Items requiring an appearance or goodwill allowance consideration

Excluded Damages in Transit Damage Claims

In a moving claim for alleged transit-related damages (TRD), there are several categories of damages for which the carrier normally does not accept liability. Keep in mind, however, that many claims settlements are negotiated. A borderline or questionable claim might be readily paid if the customer is a national account shipper while the same claim might be denied for a one-time C.O.D. shipper. Information on the carrier's liability can be found in the bill of lading—the basic transportation agreement required for all moves.

Carriers normally do not pay for damages which were caused by inherent vice, ambient conditions (humidity, gravity, temperature, light) or which were pre-existing, i.e., damages that existed prior to the move, or which cannot be attributed to rough handling by the carrier.

Inherent Vice Exclusion

As mentioned earlier, inherent vice is defined as hidden or latent defects which, when combined with the ambient conditions of humidity, temperature, light and gravity, contribute to the property damaging itself. Moving companies do not consider themselves liable for damages which can be attributed to inherent vice. Examples of inherent vice include:

- Cracking of a painting's surface

- Deterioration of paper or fabric due to its own acid content
- Drying and separation of glued joints
- Infestation by insects, moths, or vermin

Climatic Exclusion

Moving companies will normally deny claims that result from climatic changes, i.e., damages resulting from changes in ambient conditions (atmospheric conditions) such as temperature, humidity, and light. Examples include:

- **Warping**. Some warping can result from the mover placing heavy objects on top of a cabinet or table and can be a legitimate claim of transit damage. However, it is not considered carrier negligence if the warping was a result of high humidity, low-quality materials, or poor construction techniques.
- **Mold and mildew**. If mold and mildew occurred because the carrier allowed the goods to get wet (e.g., water leakage in a van), then it is the fault of the carrier. But mold and mildew will also form if the property is stored in humid and dark enclosures and there is a "host" such as food stains and soiling on which the mold and mildew can grow. This latter scenario is not the liability of the carrier.
- **Loose furniture joints**. The carrier is not libel for loosening of joints attributable to changes in temperature or humidity.
- **Cracking, shrinkage, expansion**. Wood "breathes" and over time naturally expands and contracts. There are many types of furniture, most notably from Indonesia and South America, which will suffer a large amount of cracking or shrinkage over a short period of time when moved from a wet climate to a dry climate or to a centrally air-conditioned home which dries out the wood. The carrier is not liable for cracking or shrinkage if it is caused by such variations in ambient conditions.
- **Melting**. Candles and some inexpensive items made of plastic can melt in mildly warm environments. Moving companies are not liable for such damages.
- **Fading of furniture upholstery**. Although often claimed as transit damage, there is no type of carrier service or handling known that will cause fading of upholstery. Fading is normally associated with aging and exposure to light over an extended period of time.

Mechanical/Electrical Exclusion

For electronic or mechanical equipment that does not work when delivered, the carrier is not liable for damages unless there exists external damage to the item itself or external trauma to the box in which the item was shipped.

Pre-Existing Damages (PED) Exclusion

The carrier is also not responsible for pre-existing damages (also known as "pre-move" conditions). Included are worn surfaces, scratches, loose joints, dents, breakage, rub marks, etc. Often upon delivery of the household goods, the shipper will note what appears to be "new" damage when, in reality, it is old damage that existed before the move took place. It may be the appraiser's responsibility to give an opinion as to whether or not the claimed damage is, in fact, transit-related.

Other Exclusions

In addition to the exclusions listed above, there are many other types of loss or damage for which the carrier does not normally accept liability:

- Unlisted high-value items such as jewelry, pearls and gold
- Other unlisted items of "extraordinary value" such as collections or art
- Perishable articles
- Unlisted firearms
- Items packed by the owner (PBO)
- Items damaged or lost as a result of hostilities, acts of war, strikes, civil commotion

Appraisals for Equitable Distribution

Equitable distribution is the fair division of assets between two or more entities (people or businesses). The division could be based on a method agreed upon by the entities involved, or it could be at the direction of a third-party or court. Parties to a divorce or heirs to an estate or an associated estate trustee are often faced with the need to equitably divide personal property according to its value. The overriding concern for equitable distribution appraisals is the fair division of property among all parties.

Appraisers are in the best position to provide an impartial and objective professional opinion of property values to assist with the division process.

The appraiser establishes a defined type of market value (often fair market value, net value or marketable cash value) for each item or grouping of similar items. The parties or the court then divide the property accordingly in an equitable fashion. Note that laws governing the appropriate value level for division of property vary from state to state. States may require net value, actual cash value, marketable cash value, fair market value, or value-in-use. It is imperative that you understand the state and/or local laws that pertain to these types of appraisals. When identifying the appropriate type and definition of value to use for equitable distribution appraisals, it is advisable to consult with the client and/or the client's lawyer.

In equitable distribution appraisals for divorce, the need is to arrive at a just and fair compensation for property once held jointly. The underlying concept is value-in-use which

recognizes the monetary worth (to the owner) that is necessary to substitute for the portion of property being divided away. Since the overriding concern for such "dissolution" appraisals is one of fair compensation for all parties, compensation should be such that the desire to keep the property is no greater or less than the desire to be compensated an appropriate amount of money for the property.

For equitable distribution appraisals (particularly if litigation is involved), the appraiser would make use of USPAP's Appraisal Report option.[194]

Appraisals for Divorce

In a divorce, the court frequently wants to know the net value (fair market value in California) of a divorcing couple's **marital property** to help establish an equitable distribution of property. **Net value** is the gross proceeds anticipated to result from a hypothetical sale of the property less any expenses associated with the sale **and** less any liens or encumbrances being held against the property.

Marital Property

Marital property typically refers to all property acquired by either party during the course of the marriage and prior to the signing of the separation agreement or the commencement of a divorce, regardless of the name in which the property is held.

Marital property can be titled, non-titled, or jointly-held. Exceptions (called non-marital property) could include inheritance or gift from someone other than the spouse, personal injury awards (the pain and suffering part but not the portion that substitutes for lost income), or any articles designated in a prenuptial agreement as separate property. Property brought into the marriage by either spouse is also considered as non-marital property. Know what marital property means in your state and how it is valued i.e., net value, actual cash value, or fair market value.

Community Property States vs. Common Law States

Community property states (AZ, CA, ID, LA, NV, NM, TX, WA, WI) are states in which personal property of the divorcing couple is divided equally according to its fair market value. Under a community property system, marital property is considered to be owned in common by husband and wife, each having an undivided one-half interest by reason of their marital status. In addition, one-half of the earnings of each spouse is considered owned by the other spouse.

Common law states are states in which each spouse owns whatever he or she earns. That is, property is considered to be the property of the spouse who acquired it during the marriage unless it had been put in the names of both spouses. In common law states, the court awards each party a percentage (not necessarily a 50/50 split) of the total value of the combined holdings of marital property based on several factors, one being the value of the property. The total value of all marital property can be used as a basis for a monetary award to the disadvantaged spouse. The total award cannot exceed the value of all marital property. The settlement to the disadvantaged spouse must be in cash, i.e., the court cannot order that title be changed such as transferring ownership of an automobile or home from one party to the other. For jointly-held property, the court can order that the property be sold and the proceeds divided equally.

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[194] See the Chapter 7 section entitled *Appraisal Report Options*.

For divorce appraisals, the appraiser should:

- Expect to work in a hostile environment,
- Be prepared to get all necessary information during the first visit since the appraiser might not be allowed back in for a second look, and
- Not be an advocate. Remain impartial regardless of who is your client.

  On a related issue—rather than taking direction from the client as to what is and what is not marital property (and therefore what to appraise what not to appraise), some attorneys argue that the appraiser should appraise all the property (categorized as to what is allegedly marital and what is allegedly non-marital) and let the court determine which is which. Listing according to the direction of a client, they contend, is being an advocate which the appraiser must avoid—either in fact or in perception. Get direction from the attorney as to which items to list and how to differentiate differing categories of ownership, if need be.

Your immediate need in all appraisal assignments is to identify the appraisal problem. Part of this problem identification phase of the assignment is to properly identify the property that is to be the subject of the assignment. This can be a particularly onerous task in divorce appraisals, so you need to communicate clearly with the client and the client's attorney. Here are the sort of details you will need to discuss with your client regarding the subject property:

- Is there an agreed-upon list of specific items which need to be valued? If so, both appraisers will normally value only those items on the list.
- If the client instructs you to "appraise everything in both spousal homes," you will need to inform them that there might be challenges such as:
  - The two appraisers may describe the same property using different terms, so it may not be apparent as to which item is being referred to.
  - One appraiser might group like-kind items of nominal value together into one line-item while the other appraiser might list each item separately.
  - One appraiser might list items on a room-by-room basis while the other appraiser might list items of like property type such as all furniture, followed by all art, followed by all silver, etc.
  - Has the opposing side already prepared an appraisal? If so, can you see it and should you appraise only the items they appraised? If you proceed with your appraisal, you might learn after you have finished the report that the opposing side included items your client instructed you **not** to appraise, or that you included items that the opposing side **did not** include. Such discrepancies in the two reports may cause you to have to return to both spousal homes for a re-assessment.

All the above factors (and others) will result in variations as to how each appraiser lists and describes the subject property. These variations will make it challenging when attempting to compare the same object in both reports.

- If not instructed to appraise all the contents in both locations, clarify with the client exactly which properties he or she wants you to appraise. Ideally, the client will provide you with a list or, better yet, a room-by room Excel spreadsheet inventory.

- Let your client know that if it is acceptable to him or her and if it is acceptable to the opposing side that you would gladly perform as an impartial appraisal for both parties—whether it is to value only selected agreed-upon items or to value everything in the two homes. In such a scenario, the two spouses would be considered "co-clients."[195]

Appraisals for Estate Division

In the case of a decedent's estate, an appraisal is frequently necessary to facilitate the equitable distribution of estate property among the heirs. The appraiser normally develops opinions of fair market value for this function. In some states, a state estate tax and/or inheritance tax appraisal of the decedent's estate may be required upon death. And if the estate is sufficiently large, an appraisal for federal estate tax purposes might also be required. The fair market value appraisals done for these state and/or federal estate tax functions can also be used to assist in the division of property among heirs.[196]

Appraisals for Business Dissolution

In a business dissolution where one partner buys out the interests of another partner, the appraiser is often asked to determine the value-in-place of the property being purchased. Value-in-place is the value of property taking into consideration the extent to which the property contributes to the needs of the owner or to the success of a business. It is the amount of money the property is worth to the owner because of these additive contributions.

Value-in-place might reflect not only the cost to purchase a replacement but also the costs associated with delivery and installation. The value assigned should be such that the seller's option of keeping the property is equally as attractive as selling the property in exchange for the money. Conversely, the value should be such that the buyer's option of purchasing the property is equally as attractive as not purchasing the property and retaining his or her money

Appraisals for business dissolution are most frequently performed by business valuators who specialize in the appraisal of business enterprises and intangible assets (e.g., goodwill, trademarks, copyrights, etc.) At times, the business appraiser recognizes that continued operation of the business may not be the best measure of value, and that liquidation of company assets needs to be analyzed. In such a scenario, his scope of work may include an appraisal of real property or tangible personal property by appraisers having competency in those types of property.

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[195] If more than one party engages the appraiser, all such parties are considered to be co-clients. See the Chapter 8 section entitled *Ethical Obligations to Clients* for more regarding co-clients.
[196] See the below section of this Chapter entitled *Estates and Trust Management* for related information.

Appraisals for Acquiring Insurance Coverage

Homeowners' insurance policies cover losses or damage to real property and personal property resulting from named perils such as theft, flood, earthquake, fire, etc. In case of a casualty, theft or loss, insurance companies typically have the option to repair (or replace) the damaged (or lost) property.[197]

While structures are most often repaired, personal property is typically neither repaired nor replaced; rather, in order to settle the claim, the insurance company will usually pay the **cash equivalent** of the loss in accordance with the insurance contract in effect.

Insurance contracts are intended to **indemnify** the insured (i.e., provide compensation for the damages sustained) in case of loss. The purpose of indemnification is to make the insured whole again—neither worse off nor better off than before the loss. The amount of indemnification is specified in the insurance contract between the insurance company and the insured.

There are basically three types of personal property insurance:

- Actual Cash Value
- Replacement Value (New)
- Agreed Value

The settlement amount is specified in the insurance contract. The amount could be the property's **actual cash value** (ACV) at time of loss or, by endorsement to the homeowner's insurance contract, the property's **replacement cost (new)**, or, by the addition of a personal property floater policy, the property's full **market value** (i.e., an **agreed** value). These three types of insurance are discussed below.

Actual Cash Value Insurance Policies (ACV) Insurance Policy

An actual cash value policy replaces the property for its ACV, which is usually defined as its replacement cost (new) less depreciation (RCNLD), but in some jurisdictions, such as in California, ACV is defined as fair market value and not as RCNLD.

Note that ACV policies are an older type of policy that have fallen out of favor and are rather rare today. Most holders of ACV policies are converting them to replacement value policies which, for a slightly increased premium, will indemnify the insured for the full replacement value of the property and not merely its RCNLD.

In case of loss and when ACV is not defined in the policy, the insurance company will indemnify the ACV policyholder with an amount which is calculated based on the item's replacement cost (new) less depreciation or, where applicable, based on the item's fair market value instead such as would be the case if the insured lives within a jurisdiction in which ACV is defined as fair market

[197] At the end of this section regarding acquiring insurance coverage, we will briefly discuss a related topic—title insurance for art.

value.[198] States might also depend on the Broad Evidence Rule in order to determine a fair and equitable settlement.[199]

Note that "actual cash value" is synonymous with "actual value" or "cash value." Terms vary but the meaning is the same. The New York 1943 Standard Fire Policy, which is the form mandated for such policies by many states, provides that in case of loss the insured shall be compensated:

> *…to the extent of the **actual cash value** of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss.* [emphasis added]

This definition of actual cash value is ambiguous at best and has required legal decisions to clarify, but, as mentioned, most often, actual cash value is defined as **replacement cost (new) less depreciation**, i.e., the current cost to buy a brand-new item (identical or similar to the lost property) minus an amount that reflects all forms of depreciation. The resulting amount will be a measure of the value (based on commonly-accepted rates of depreciation) of the remaining useful life of the property that was lost.

Homeowners with a four-year-old television and who are in a jurisdiction where ACV is defined as RCNLD would receive an amount of money based on the RCNLD calculation. If in a jurisdiction where ACV is defined as fair market value, they would receive an amount based on what a used TV would sell for within the most common market. In either case, the indemnification would not be very much.

Some insurance company policies exclude appreciable items such as antiques from coverage for their market value in an ACV policy. Those homeowners who have such an ACV policy and who lose valuable antiques would be out of luck. If there was any compensation allowed in such a case, it would be minimal.

On the other hand, some insurance company policies pay market value for unscheduled appreciable property. In response to an underwriter's question regarding how to value unscheduled antiques under a homeowner's actual cash value (ACV) policy, the National Underwriter Company replied:

> *In the case of unscheduled antiques, market value is the appropriate measure of value. Antiques usually cannot be replaced or, otherwise, replacement may be accomplished only with great difficulty. (However, dealers and expert appraisers in the field should be consulted on items of substantial value as they may have access to sources of supply, and information about rarity, that are not known to casual observers.) And, a characteristic that is unusual for property in general, the value of antiques ordinarily appreciates with age. Depreciation applies to an antique only in terms of condition—the nearer to "showroom condition," the higher its market value.*

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[198] See the below section of this Chapter entitled *Definition of "Actual Cash Value" Varies* for more information regarding the definition of ACV and how the various states calculate loss claims when ACV is not defined by the insurance policy.

[199] The below section of this Chapter entitled *Broad Evidence Rule (BER) for Insurance Disputes* discusses this oft-used technique to settle disputes.

Who Calculates ACV?

Normally ACV is calculated by insurance company adjusters making use of proprietary, in-house schedules of depreciation rates. However, the appraiser might also be tasked with the calculation such as when the insured is suing an insurance company for indemnification of the actual cash value of household goods lost in a fire or flood, or when suing an apartment complex for wrongful eviction and the measure of damages is actual cash value.[200]

To assist in calculating ACV for a large number of items of depreciable personal property, make use of **Maloney's ACV Calculators.** On the following page is a screen shot of one of **Maloney's ACV Calculators** in action. Note there are columns for:

- Item ID number
- Item description
- Quantity
- Age of item in years
- Replacement cost (new) per item
- First year depreciation (taken from *JMITWDG*).

  Note: Apply the full first-year depreciation for items between 6 and 12 months old. Depreciation is not normally taken for items less than 6 months old, excluding the month of purchase.

  The exception is rapidly depreciating items. Items such as tires, most clothing items and toys rapidly lose their value. Depreciation should be taken on such items even when they are less than 6 months old. As a rule of thumb, half of the normal yearly (or flat rate) depreciation should be taken on such items when they are between 3 and 6 months old at the time of loss. For rapidly depreciating items less than 3 months old, do not apply any depreciation at all.

- Subsequent years annual depreciation (taken from *JMITWDG*)
- Maximum depreciation if applicable (taken from *JMITWDG*)
- Flat rate depreciation if applicable (taken from *JMITWDG*)
- Total replacement cost (new) for the quantity listed

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[200] Maloney's ACV Calculator are Excel spreadsheets which make use of the depreciation rates contained in the *Joint Military/Industry Table of Weights and Depreciation Guide (JMITWDG)*). Copies of Maloney's ACV Calculators (one .zip file containing three calculators: Basic, Premium and Premium Plus) are available at davidmaloney.com/store/. A copy of the *JMITWDG* can be downloaded in PDF format from the same website

- Total depreciation for the quantity listed
- ACV for the quantity listed (i.e., total replacement cost (new) for the quantity listed minus total depreciation for the quantity listed)
- In the bottom right cell, the spreadsheet calculates Actual Cash Value for all items listed.

Maloney's ACV Calculator for Depreciable Property

ID	DESCRIPTION	QTY	AGE (YRS.)	UNIT REP COST	1st YR % DEP	SUB YR % DEP	MAX DEP	FLAT%	REP COST EXTENDED	TOTAL DEP	ACV
1	Pair girls pants	9	2	$30.56	30%	10%	75%	0%	$275.04	$110.02	$165.02
2	Pair boys jeans	6	2	$40.00	30%	10%	75%	0%	$240.00	$96.00	$144.00
3	Sweat shirts	2	1	$37.50	33%	33%	75%	0%	$75.00	$24.75	$50.25
4	Boys shirts	6	2	$25.00	33%	33%	75%	0%	$150.00	$99.00	$51.00
5	T shirts (Polo, Nautica, etc.)	21	2	$20.00	33%	33%	75%	0%	$420.00	$277.20	$142.80
6	Sleeping bag	1	2	$65.00	10%	10%	75%	0%	$65.00	$13.00	$52.00
7	Nitendo Play Station	1	2	$200.00	10%	10%	75%	0%	$200.00	$40.00	$160.00
8	Clock radio	1	3	$45.00	10%	10%	75%	0%	$45.00	$13.50	$31.50
9	Trash can	1	2	$10.00	10%	10%	75%	0%	$10.00	$2.00	$8.00
10	Trophy	1	1	$10.00	0%	0%	0%	25%	$10.00	$2.50	$7.50
11	Framed award certificate	1	1	$50.00	0%	0%	0%	25%	$50.00	$12.50	$37.50
12	Gray oriental style area rugs	2	3	$150.00	20%	20%	90%	0%	$300.00	$180.00	$120.00
13	Portable radios	2	3	$250.00	10%	10%	75%	0%	$500.00	$150.00	$350.00
14	Cherry dining room table plus six chairs	1	8	$2,100.00	7%	7%	75%	0%	$2,100.00	$1,176.00	$924.00
15	Window blinds for living and dining rooms	1	1	$1,400.00	5%	5%	75%	0%	$1,400.00	$70.00	$1,330.00
16	Year supply of disposable contact lenses	1	1	$280.00	0%	0%	0%	50%	$280.00	$140.00	$140.00
								TOTALS:	$6,120.04	$2,406.47	$3,713.57

The use of Maloney's ACV Calculator for Depreciable Property to which this table applies is applicable only for depreciable property - not for appreciable property. The use of depreciation rates assumes the items were subjected to normal wear and usage

Definition of "Actual Cash Value" Varies

States use various definitions of ACV in order to calculate ACV when a property insurance policy fails to define the term itself. Some states define ACV as fair market value. Some define ACV as replacement cost (new) less depreciation. But most states follow the Broad Evidence Rule which allows the introduction to a dispute resolution of any evidence and factors that would tend to establish the correct estimate of property value.[201]

Some states have by statute, case law or regulation established their own definition of "actual cash value." In such jurisdictions the appraiser, of course, is guided by that designated measure. As noted, one state may measure the "actual cash value" by the item's "fair market value," while another state may use as the standard "replacement cost (new) less depreciation."

As an example, California statutory law states that in cases of total loss to a given property, the measure of actual cash value shall be either "the policy limit or the fair market value of the structure, whichever is less." Cal. Ins. Code § 2051(b).

And New York Central Mutual Fire Insurance Company v. Diaks states, *"The phrase "actual cash value" in the law of insurance as well as in the law of damages, may mean "market value," or the more elastic standard of "**value to owner**."* Indeed, in the state of New York, in situations where the policy language is silent on the definition of "actual cash value," the Broad Evidence Rule is the default rule.[202]

All this serves to underscore the importance that appraisers have knowledge of statutes, local case law, and regulations which determine the requirements within their jurisdiction governing the type and definition of value to be used.

As we discuss next, while the concept of indemnification is to make one whole again, neither the replacement cost (new) less depreciation method of determining ACV nor the use of fair market value to establish ACV necessarily ensures an equitable settlement, i.e., it does not always satisfactorily compensate for the above-mentioned **value to owner**.

Replacement Cost (New) Less Depreciation Not Always Fair

If the property is maintained and is in pristine condition before loss or damage, a settlement based on ACV being defined as "replacement cost (new) less depreciation" may result in an insufficient recovery. An example would be a 30-year-old sofa that had hardly ever been used and that was even protected by a plastic slip cover throughout its life. After the application of 30 years' worth of depreciation, its ACV would be nil, yet it is as good as new. Similarly, if using this definition for ACV, the amount paid to the insured for the loss of a brand-new upholstered armchair would be excessive if the new chair had been soiled, stained and torn prior to the loss.

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[201] Tressler LLP, a national law firm headquartered in Chicago, has compiled a state-by-state list of the methods of calculating a loss claim when ACV is not defined by the policy. See: https://www.tresslerllp.com/docs/default-source/Publication-Documents/50_state_acv_final_use_update-feb-2016_.pdf (or shortened to https://bit.ly/2XBLUZ8)

[202] SR Int'l Bus. Ins. Co. v. World Trade Center Props., LLC, 445 F. Supp. 2d 320, 342-45 (S.D.N.Y. 2006) citing McAnarney v. Newark Fire Ins. Co., 159 N.E. 902 (N.Y. 1928).

Fair Market Value Not Always Fair

The use of fair market value as a definition of actual cash value may also not always be an appropriate gauge of a fair indemnification amount either. For instance, a settlement based on "fair market value" may result in insufficient recovery if the property has no market value but is still functional, such as the above-mentioned upholstered armchair. And the fair market value prior to loss of an older computer is often nearly zero. Paying this relatively small amount for the loss of the computer fails to fully indemnify (make whole) the insured who would still be without the use of a computer despite the (minimal) fair market value settlement payment. In both the case of the chair as well as of the computer, payment of fair market value would not be fair as it fails to compensate adequately for **value to owner**.

Broad Evidence Rule (BER) for Insurance Disputes

In many situations, then, the use of either replacement cost (new) less depreciation or market value to gauge loss can be problematic. As a consequence, the courts in many jurisdictions have adopted the Broad Evidence Rule (BER) to assist in reaching a more equitable settlement.

The thesis of this rule is that whatever evidence that can be produced of the real value of the property is admissible. In other words, the value of the property can be ascertained by whatever measures provide the most accurate picture of that property's real value to the owner. Thus, this is a method of determining the real worth of an item making use of any bona fide approach that will provide an accurate measure of that property's value to its owner.

The Broad Evidence Rule is used when disputes arise. The Rule is based on McAnarney v. Newark Fire Insurance Co. 159 N.E. 902 (N.Y. 1928) which states: *"Where insured [property] has been destroyed, the trier of fact may, and should, call to its aid, in order to effectuate complete indemnity, every fact and circumstance which would logically tend to the formation of a correct estimate of the loss. It may consider original cost and cost of reproduction; the opinions upon value given by qualified witnesses...the gainful uses to which the (property) might have been put; as well as any other fact tending to throw light upon the subject."* Some form of this rule has been adopted by most states.

The Broad Evidence Rule (a.k.a., The McAnarney Rule) states that there are no fixed or rigid guidelines for the determination of the amount of recovery in case of loss. The two standards normally used (fair market value or replacement cost (new) less deprecation) are merely guidelines, and are not the sole determination of the actual loss. The rule allows for consideration of all the facts and circumstances (such as age, degree of obsolescence at time of loss, property has no market, value-in-use, profit likely to accrue due to its use, owner's opinion of value, property's tax value, remaining useful life, etc.) which logically tend to develop a correct estimation of value of the destroyed or damaged property for the purpose of ascertaining complete indemnification and no more.

As noted, the Rule allows for many nontraditional valuation factors to be included in the determination of actual cash value such as the **functional value** (i.e., the **value to the owner**)—the value of the property's use to the owner who suffers by its deprivation. In the case of an automobile loss valuation, the courts have even allowed testimony of the previous owner as to the price of the car when new in addition to testimony regarding the care given to the car while originally owned, the use to which it was put, and its condition when sold to the insured.

BER does not replace either the fair market value or the replacement cost (new) less depreciation standards. Rather, should a dispute arise, the application of the Rule would allow the consideration of all the facts and circumstances which logically tend to develop a correct estimate of the property's **functional value**. The Broad Evidence Rule attempts to make settlement more equitable by **giving consideration to all issues that might impact on the determination of actual cash value** rather than simply its “replacement cost (new) less depreciation” or “fair market value.”

The Broad Evidence Rule is an inclusive valuation method the use of which may require the appraiser to provide a broad range of value and related information in order to assist a third-party (usually an insurance company or a court of law) in making a fully-informed decision as to a fair and equitable settlement. An appraiser may be asked to provide any or all of the following:

- Cost of a new replacement
    - Cost new if purchased by insured
    - Cost new if purchased by a large insurance company at volume discount
    - Cost new if purchased while on sale (as is typical for sterling silver flatware)
    - Cost new if purchased at a discount store as opposed to an upscale retailer
- Cost if purchased used
- Original cost to the insured
- Market value prior to loss/damage
- Market value after loss/damage
- Cost to construct an acceptable substitute property, if possible
- Salvage or scrap value of the property in damaged condition
- Repair cost
- Loss-of-value if professionally repaired/restored
- Age and pre-existing condition of subject property
- Care or maintenance records
- Degree of depreciation, deterioration and/or obsolescence, if any
- Location of the property
- How property is being used
- Sales history of the property
- Purchase offers for the property

Replacement Cost Insurance Policies

The most common and popular type of personal property insurance is by purchase of an optional replacement cost endorsement to a homeowner's policy. This policy is referred to by companies as a **Replacement Cost Policy** (RCP). Some refer to it as a replacement **value** or **full value** policy.

For RCP policyholders having depreciable property capable of being replaced with a brand-new item (such as a common sofa or television) the indemnified amount will be the item's replacement cost (new) without any deduction for depreciation.

With this type of policy, the insurance company has the option of repairing, replacing (at the lowest cost they can negotiate) or cashing the item out. While they have the option to replace or pay the insured the insurance company’s cost to replace, for most items insurance companies normally let the insureds purchase their own replacement items themselves. If the total loss for all items is large enough (e.g., over $2,500 or $5,000), insurance companies implement a

"holdback", i.e., they pay only ACV until the properties are actually replaced at which time they pay the balance up to replacement cost (new) based on the insured producing the receipts for actual replacement purchases that were made. But until actually replaced, for these larger losses insurance companies normally pay only ACV.

How are appreciable items such as antiques and collectibles handled with replacement cost policies? What happens if a $2,500 round oak c. 1900 antique dining table is damage beyond repair? In replacement value policies, items such as antiques, memorabilia, collectibles, and items whose age or history contribute substantially to their value are excluded from full coverage. They are not fully covered by these policies because they are unable to be replaced with a **new** property. For high value, appreciable items such as antiques, covering them under a replacement cost policy may very well result in the insured receiving much less than the valuable antique is worth—hence the need for homeowners to consider an **agreed value** policy for their antiques, fine art and other appreciable property.

Agreed Value Insurance Policies

Another form of coverage and the most desirable for owners of high value art, decorative art and antiques is the Agreed Value Policy. The insurance companies seldom call them agreed value policies, though. For instance, they are might be called Valuable Articles Coverage or Valuable Personal Property Policy. Some companies term these policies "valuable items policies," "stated value policies," "personal property riders" or "floaters."

Regardless of what they are called, with an agreed value type policy, the insured and the insurance company, in effect, agree on the amount that the insured will be compensated in the event of a total loss. This kind of policy is the only way to know in advance how much one will receive from an insurance company if a scheduled item is destroyed or stolen. With an agreed value policy, the insured will get the amount listed on the policy.

The agreed value is also the amount on which the insured's premium is based, and with an agreed value policy the option for the insurance company to replace the property is eliminated. The amount agreed upon can be based on the insured's purchase records, photos and other data for relatively inexpensive items, but is normally based upon an appraisal, especially for higher valued items. These value thresholds vary between insurance companies. Agreed value insurance appraisals should reflect the high-valued property's **replacement value** (new or comparable, as applicable) as of the date of valuation.

Collectibles Insurance Policies

Large private fine art collections normally have proper risk management in place including insurance that covers the full, agreed value of the items. But there are also millions of those having smaller collections including toys, comics, guns, movie memorabilia, stamps, sports cards and sports memorabilia, guns, knives, etc. Most of these small collections, however, tend to be either uninsured or underinsured with a traditional homeowner's policy. When faced with a devastating event that results in damage or loss, owners of these smaller collections often discover that their coverage fails to indemnify them for the full replacement value of their losses. Enter the Collectibles Insurance Policy.

A collectibles insurance policy isn't like a traditional homeowner's policy. A traditional homeowner's policy tends to offer lower limits of coverage (such as maximum coverage or $500 to $2,000 unless an additional floater or rider is purchased), and they tend to have less expansive coverage when compared to a collectibles insurance policy. Typically, a homeowner's policy covers only for certain named perils, but not while items are in transit or stored away from home.

While collectibles policies often do not cover furniture, fine art or jewelry, collections that do qualify are insured for their full replacement value (less any deductible) and never depreciate. Indeed, with collectibles insurance, coverage on certain higher-valued scheduled items often automatically increases periodically to account for inflation. Collectibles insurance coverage also typically applies to a collection's accessories such as model train layouts and product packaging.

As noted, collectibles insurance coverage is often more expansive than regular homeowner's insurance. Coverage offered by a collectibles insurance policy often includes damage caused by accidental breakage and theft in addition to the typical named perils of fire, windstorm, flood and earthquake.

Making a spur-of-the-moment addition to your collection? Collectibles insurance often automatically covers additions upon purchase. Collectibles insurance also covers items while being shipped, being stored outside of your residence or being used for special occasions.

When it comes to the amount of coverage, whereas a standard homeowner's policy might cover actual cash value or replacement cost (new) (for depreciable items capable of being suitably replaced with a brand-new item—which would exclude most if not all collectibles), a collectibles policy insures the full replacement value (comparable) of the items in the collection, i.e., the amount it would cost to purchase a comparable item at retail from within the collectibles marketplace.

The Insurance Appraisal

Depending on the type of insurance coverage being sought for one's personal property, an appraisal will often be required. Insurance appraisals serve to set an amount of coverage as well as an amount on which insurance premiums are based. In addition, insurance appraisals:

- Serve to prove that the property existed at the time of the appraisal inspection,
- Document the property's condition at the time of the appraisal inspection, and
- Provide documentation such as dimensions, marks, descriptions and photographs that could greatly assist in the claims settlement process as well as in property recovery in cases involving theft.

In general, when dealing with insurance appraisals, the appraiser may be asked to determine any of the following values/costs.[203]

- For ACV policies (few and far between)

[203] Whichever type of value the appraiser uses, it must be defined based on the conditions of the assignment such as identifying in the value definition the market in which research is conducted.

  - Replacement cost (new) (from which adjusters subtract for depreciation in order to calculate ACV)
  - Fair market value

- For Replacement Cost policies
  - Replacement cost (new) (for depreciable property, i.e., property capable of being suitable replaced with a brand-new item)

- For Agreed Value policies
  - Replacement value (new or comparable, as applicable) based on replacement cost (new or comparable)

With insurance appraisals, the appraiser develops an opinion of replacement value which is indicative of what the insured would most likely have to pay in order to replace the subject property with a comparable property within a reasonable amount of time from within the marketplace in which the insured most commonly and conveniently shops (i.e., the most relevant market). For antiques and works of art, this would normally include traditional brick-and-mortar or online retail antiques shops or art galleries.

The replacement value will be used as the basis for indemnification should a loss occur to property covered under a replacement cost endorsement to the homeowner's policy or for property covered for an agreed value under a personal articles rider or floater policy.

For property covered under an actual cash value policy, the replacement value could be used by the claims adjuster to calculate a settlement based on the replacement cost (new) less depreciation formula for those appraised items which are depreciable in nature and which are capable of being suitably replaced with a brand-new item.

When conducting an insurance appraisal, the appraiser is responsible for applying due diligence in documenting the property by identifying its quality and other relevant characteristics and in describing it to such an extent as would be required for a person unfamiliar with the property to differentiate it from among a group of similar properties. Such a level of description is required for accurate insurance underwriting and for identification during theft recovery, both of which are facilitated by a thorough "word picture" description of the property including dimensions, signatures, material, and unique features and marks. While photographs assist in this effort, by themselves they are more often than not unable to capture the level of detail required for "a person unfamiliar with the property to differentiate it from among a group of similar properties."[204]

Settlement Options

Insurance companies typically have several options by which they can settle a claim for loss or damage to personal property. The appraiser may be involved in providing the necessary information needed to facilitate any one of these options. Included are the options to:

[204] Sample descriptions are provided later in Chapter 10.

- **Repair the item** to its pre-damage condition. This option might require the appraiser to develop an opinion of loss-of-value. It may also require a repairperson to provide repair costs if the appraiser is not qualified to do so.

- **Replace the item** with an identical item or with a suitable equivalent item. The appraiser may be asked to provide suggested sources for replacement items.

- **Cash the item out:**

    - For its actual cash value if the insured had actual cash value coverage (or for its fair market value if fair market value is the method of calculating actual cash value in the state in which the insured resides), or

    - For its replacement cost (new) if the insured had a replacement cost coverage endorsement to his or her homeowner's policy, or

      Note: The insurance company may have the option to cash out not at full replacement value but rather for a lesser amount that would be equivalent to what the insurance company would have to pay at **wholesale** to purchase a comparable replacement item from one of their own network of wholesale suppliers. This most often pertains to losses involving jewelry that is capable of being replaced with a new item (i.e., an item that is not vintage or custom-designed, etc.) Receiving only the wholesale price of a lost diamond ring might come as a surprise to an insured who was expecting to receive (and who was paying premiums for) full retail replacement cost in case of a loss. Insureds need to be familiar with their insurance contracts which spell out settlement options available to their insurance company!

    - For its agreed value if the insured had an agreed value personal articles floater policy.

- **Offer** either an appearance allowance or a goodwill allowance and let the client retain the property if it is not a total loss but is not feasible to repair.

- **Deny** the claim.

When Disputes Arise

It is not uncommon for disputes to arise between the insured and the insurer regarding the cash-out value of an item or the amount of loss-of-value that a repaired item might have suffered.

- Of greatest concern to the **insured** is how the item can be restored as closely as possible to its original condition, how to be fairly compensated for any subsequent loss-of-value, and, if damaged beyond repair, how to be fairly compensated for the item's pre-insult value.

- Of greatest concern to the **insurer** is to pay out the least amount possible—be it the cost to repair or, if lower, the pre-insult value of the item itself.

Motor vehicles have published “Blue Book” values to guide insurers in deciding which will be least expensive—to repair or to cash-out a damaged vehicle; however, no such cash-out guidelines exist for other types of personal property. Consequently, disputes regarding the amount of indemnification for the settlement of claims involving damaged art, antiques and collectibles are common. And for items which have been damaged and restored, establishing a loss-of-value that is acceptable to both sides is often an onerous task.

In cases where the damage is not considered to be significantly more than the value of the property, the item is most often sent out for repair. For high-valued works of art, this determination is often made with the assistance of a conservator who is able to determine if the item is repairable and, if so, at what cost.

Once repairs have been completed, a qualified appraiser specializing in the property type under consideration is retained to determine if the now-repaired item has suffered any diminution of value and, if so, to what extent.

On occasion, there are disputes between the values or loss-of-values submitted by the appraiser retained by the insured and the appraiser retained by the insurer. Most fine art insurance policies contain arbitration clauses which require that, in case of a dispute, a third appraiser (agreed to by both parties) be retained to act as an "umpire" and who, after having reviewed both valuations, would then render a binding decision.[205]

Art Title Insurance

Though standard in real estate transactions, the concept of title insurance which guarantees that a seller is the free and clear owner of a property is a relatively new concept to the art world.

Having art title insurance, however, can avoid disputes that might arise after a transaction has been completed. The most obvious art title disputes involve theft, and in the United States buyers who unwittingly obtain a stolen work often have to surrender it.

More commonly, though, ownership is muddied by more mundane reasons such as forgeries, illegal exports, unpaid taxes, an artwork continuing to carry a lien after being used as collateral for a loan, or a seller who may not have the authority to sell the piece, such as in the case of an ongoing divorce. Buyers are at risk when a purchase is repossessed, as are museums at risk in the case of a repossessed donation.

Though cursory research might appear to show a clear title and the property being free of claims or encumbrances, those involved with transactions of high-valued works of art often find that having art title insurance makes would-be buyers more likely to strike a deal and museums more comfortable with accepting a donation.

Art title insurance typically covers the legal costs incurred should an ownership dispute regarding insured artwork arise. It also covers the agreed value of the artwork should the client lose an ownership dispute.

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[205] See the section entitled *Loss-of-Value* in Chapter 2 for a related discussion.

Federal Tax Liability Applications

I want to preface this section by noting that we are appraisers—we are not tax advisors or accountants. Refrain from giving tax advice unless you are also educated, trained and, if required, licensed to do so. Having said that, while we normally might not be qualified to offer tax advice, we should be conversant about issues related to appraising for income tax purposes. We should also be knowledgeable about and be able to discuss with the client which tax forms need to be submitted and when. We will discuss these as well as related issues throughout this section.

Tax Work: Appraiser Liability

While more often of concern regarding those appraising real property, even personal property appraisers might find themselves subjected to client law suits should the appraiser be charged with negligence due to their client being penalized for an underpayment of taxes because of a substantial valuation misstatement by the appraiser.

All appraisers (and in particular those involved with tax work) need to be educated in current techniques and methodologies of appraising. In addition, they must be sure to comply with recognized standards of practice such as USPAP when developing opinions of value and reporting assignment results to the client.

Appraisers might also wish to protect themselves against taxpayer blame for an adverse tax determination by including a provision in their engagement agreement with the client noting that the taxing authority might not agree with the appraiser's opinions of value and that the appraiser is not financially responsible for any additional taxes, penalties or interest that might be imposed. An attorney who advises professionals and businesses about legal and regulatory issues concerning valuation and insurance suggests the following Agreement provision for those appraisers who feel that they might be exposed to this type of tax-work liability:

> *Client intends to utilize Appraiser's appraisal(s) and/or report(s) prepared under this Agreement in connection with a tax matter. Appraiser provides no warranty, representation or prediction as to the outcome of Client's tax matter. Client understands and acknowledges that the taxing authority (whether it is the Internal Revenue Service or any other federal, state or local taxing authority) may disagree with or reject Appraiser's appraisal(s) and report(s) or otherwise disagree with Client's tax position, and further understands and acknowledges that the taxing authority may seek to collect from Client additional taxes, interest, penalties or fees. Client agrees that Appraiser shall have no responsibility or liability to Client or any other party for any such taxes, interest, penalties or fees and that Client will not seek damages or other compensation from Appraiser relating to any taxes, interest, penalties or fees imposed on Client or for any attorneys' fees, costs or other expenses relating to Client's tax matter.*

Tax Liability Intended Uses

There are several federal tax liability applications requiring personal property appraisals including the following intended uses:

- Noncash charitable contributions

- Federal estate taxes
- Loss due to a casualty, disaster or theft
- Gift tax purposes
- Bankruptcy purposes

A brief introduction to each of these federal tax liability appraisal applications follows. References are made at the end of each section to Treasury Regulations and IRS Publications and Forms which will help you to better understand the laws and regulations governing appraisers and appraisals done for federal tax liability purposes.[206]

Note that when written in 1966, Revenue Procedure 66-49 *Appraisal Guidelines & Formats*[207] established procedures and formats for federal appraisals being done primarily for noncash charitable contribution and gift tax functions. However, for **noncash charitable contribution tax purposes**, Rev Proc 66-49 has been superseded by the following:

- Revenue Procedure 96-15 *Post Contribution Pre Filing Procedure* (1996) which serves to resolve tax controversies as early as possible for appraisals of high-value items done for either donation or estate purposes.[208]
- For pre August 17, 2006 appraisals: Treasury Regulation §1.170A-13 *Recordkeeping and Return Requirements for Deductions for Charitable Contributions* (1988) which, essentially, defines "qualified appraiser" and "qualified appraisal" and what information must be contained in an appraisal done for noncash charitable contribution purposes in which a deduction of more than $5,000 is claimed on returns.[209]
- For post August 17, 2006 appraisals: Pension Protection Act of 2006 (PPA), Section 1219 caused the redefinition of the terms "qualified appraisal" and "qualified appraiser" for appraisals done for noncash charitable contribution purposes in which a deduction of more than $5,000 is claimed on returns.
    - On Oct. 6, 2008, Proposed Treasury Regulations §1.170A-16, 17 and 18 *"Substantiation and Reporting Requirements for Cash and Noncash Charitable Contribution Deductions"* were adopted and generally incorporate many of the earlier requirements of §1.170A-13. These proposed regulations were finalized and adopted effective July 30, 2018.

While the above superseding regulations apply primarily to appraisals being done for noncash charitable contribution purposes, appraisers should also use these most current requirements when performing other federally-related appraisals such as for estate and gift tax purposes. Most significant, perhaps, are the new requirements contained in the PPA and the resulting Treasury

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[206] IRS Publications and Forms change frequently. Be sure you are using the most current revision by visiting IRS.gov.
[207] See Appendix V *Revenue Procedure 66-49 Appraisal Guidelines and Formats.*
[208] See Appendix W *Revenue Procedure 96-15 Post Contribution Pre-Filing Procedure.*
[209] See Appendix R *Treasury Regulation §1.170A-17(a) Definition of Qualified Appraisal*, Appendix S *Treasury Regulation §1.170A-17(b) Definition of Qualified Appraiser*, and Appendix T *Treasury Regulation §1.170A-13(c)(4) Appraisal Summary*.

Regulations for defining the above alluded to definitions of **"qualified appraisal"** and **"qualified appraiser"** which we will discuss later in this chapter.

Definition of Fair Market Value

All federal tax liability intended uses of appraisals require that the appraiser determine the subject property's **fair market value** which is defined in Treasury Reg. §1.170A-1(c)(2). The definition is elaborated on by Estate Tax Regulation §20.2031-1(b).

Treasury Regulation §1.170A-1(c)(2)[210] defines FMV for contributions as:

> *The fair market value is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts. If the contribution is made in property of a type which the taxpayer sells in the course of his business, the fair market value is the price which the taxpayer would have received if he had sold the contributed property in the usual market in which he customarily sells, at the time and place of the contribution and, in the case of a contribution of goods in quantity, in the quantity contributed. The usual market of a manufacturer or other producer consists of the wholesalers or other distributors to or through whom he customarily sells, but if he sells only at retail the usual market consists of his retail customers.*

Treasury Estate Tax Regulations expands on the above definition by prohibiting the use of **forced sales** as comparable market data and by requiring the use of the market in which such items are **most commonly sold** to the public (i.e., the end retail consumer). Estate Tax Regulation §trasu-1(b)[211] defines FMV for estate tax purposes as:

> *The fair market value is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts. The fair market value of a particular item of property includible in the decedent's gross estate is not to be determined by a forced sale price. Nor is the fair market value of an item of property to be determined by the sale price of the item in a market other than that in which such item is most commonly sold to the public, taking into account the location of the item wherever appropriate. Thus, in the case of an item of property includible in the decedent's gross estate, which is generally obtained by the public in the retail market, the fair market value of such an item of property is the price at which the item or a comparable item would be sold at retail. For example, the fair market value of an automobile (an article generally obtained by the public in the retail market) includible in the decedent's gross estate is the price for which an automobile of the same or approximately the same description, make, model, age, condition, etc., could be purchased by a member of the general public and not the price for which the particular automobile of the decedent would be purchased by a dealer in used automobiles.*

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[210] See Appendix EE *Treasury Regulation §1.170A-1(c).*
[211] See Appendix Q *Tax Regulation §20.2031 and other Federal Estate Tax Issues.*

Use Fair Market Value for All Income Tax Purposes

In Anselmo v. Commissioner , the Tax Court, in applying these definitions of fair market value in a noncash charitable contribution case, held that there should be no distinction between the measure of fair market value for estate and gift tax purposes and noncash charitable contributions under the income tax law. One cannot make use of replacement value for a noncash charitable contribution appraisal in order to falsely increase the deduction amount; nor can one make use of forced liquidation value for an estate appraisal in order to minimize federal estate taxes. In other words, one must make use of fair market value as defined in the preceding section for all federal tax liability appraisals.

Pension Protection Act of 2006

Public Law 109-280 *Pension Protection Act of 2006* (PPA) contains a number of provisions which changed the Internal Revenue Code and the way tax-related valuations must be performed by all appraisers including members of the personal property discipline. Despite its name, the provisions of the Act go beyond changes in pension law by impacting on individual income tax issues as well—including claimed deductions for gifts to charity.

The PPA law is interpreted through new Treasury Regulations which significantly raised the bar for the qualifications required of appraisers of property for noncash charitable contribution purposes in which a deduction of more than $5,000 is claimed on returns. The new regulations also require the application of generally accepted appraisal standard such as USPAP to the appraisal process. These changes place greater accountability on appraisers of property being valued for federal tax-related intended uses. The new regulations also make other miscellaneous changes as well. One such miscellaneous change is the new requirement that individual items of donated clothing or "household items" in **less** than good used condition and that are valued in excess of $500 be appraised by a **qualified** appraiser.

Although the new definitions of **qualified appraiser** and **qualified appraisal** are located in the charitable contribution section of the tax code, it is anticipated that the new regulations will eventually be applied to tax-related intended uses other than merely charitable contributions, such as for estate and gift tax purposes as well.[212]

Personal Inspection Not Required by IRS

Before discussing the various types of federal tax liability appraisals, we should take a moment to discuss the need (or lack thereof) for the appraiser to personally inspect the property that is the subject of a federally-related appraisal report. This topic is covered in some detail in the Chapter 3 section entitled *Inspection vs. Non-Inspection* and in the Chapter 5 section entitled *Using Photographs to Appraise When a Hands-On Inspection is Not Possible,* but I want to briefly touch on the issue here in order to give you the IRS' perspective on the matter.

Recall that, as mentioned in Chapter 3, USPAP does not require a personal, hands-on inspection of the subject property by the appraiser even though such an inspection is most often done by the signing appraiser. What USPAP requires is that the appraiser **identify the subject property and**

[212] For a discussion of the changes to the definition of qualified appraiser and qualified appraisal, see the section entitled *Changes to "Qualified Appraiser" and "Qualified Appraisal" Caused by Public Law 109-280 (Pension Protection Act of 2006)* later in this chapter.

the characteristics of the property that are relevant to the type of definition of value being used and to the intended use of the appraisal. The appraiser often personally inspects the property in order to obtain this information, but that is not the only way such information can be obtained. The appraiser might instead make use of input from other professionals, appraisers, experts or consultants; or maybe the appraiser is forced to make use of client-provided photographs and descriptions such as for an item that was lost in a fire.[213]

In a similar way to USPAP, the IRS also does not require a personal inspection of the subject property being appraised for tax liability purposes. After all, when reviewing appraisals, the IRS and its Art Advisory Panel themselves work almost exclusively from photographs since it would be too burdensome for them to travel and personally inspect every item that comes before them for review (or, even worse, to have everything sent to their office for examination!).

Issues of condition and possibly authenticity are critical relevant characteristics of many appraised items that are of high value; therefore, when conducting an appraisal of such items that makes use of photographs or digital images in lieu of a personal inspection by the appraiser, the IRS suggests that the appraiser clearly state that photos were used and that the property was not personally inspected.[214]

The IRS also suggests that the appraiser clearly state all extraordinary assumptions (yet another USPAP requirement) made such as to condition and authenticity (if relevant) and the basis for same (e.g., *"subject property was clearly shown in photographs of auction catalog or exhibition catalogs,"* or *"it was described in the conservator's condition report,"* or *"it is based on the results of an authentication report provided to the appraiser,"* etc.)

Appraisers should be aware that IRS reviewers often do fact-checking of their own. A simple telephone call by them to the donee can reveal the true condition and authenticity of the donated property that is the subject of the appraisal under review.

Regardless of the above, only in rare circumstances should the appraiser fail to personally inspect the subject property when doing tax liability appraisals.

Noncash Charitable Contribution Appraisals

A deduction for noncash charitable contributions is generally permitted subject to certain limitations depending on the taxpayer's Adjusted Gross Income (AGI), the nature of the property contributed, and the type of donee organization. Taxpayers are required to obtain a **qualified appraisal** from a **qualified appraiser** for donated property for which a deduction of more than $5,000 is claimed.[215]

When 100% of the taxpayer's (i.e., donor's) interest in noncash property having a **related-use** to a **qualifying** organization is donated to that organization (i.e., donee), the taxpayer is allowed an

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[213] See the Chapter 3 section entitled *Inspection vs. Non-Inspection* for more on the appraiser's USPAP responsibility for identifying the characteristics of the property that are relevant to value and marketability.
[214] By the way, stating whether or not the appraiser personally inspected the subject property is also a required element of the USPAP certification statement which must be included in every appraisal report.
[215] As noted elsewhere in this chapter, an addition to this long-standing requirement is the new *Pension Protection Act of 2006* requirement that donated clothing or "household items" in **less** than good used condition and valued **in excess** of $500 must now also be appraised by a qualified appraiser.

income tax deduction of an amount equal to either the **fair market value** of the property or the taxpayer's **basis** in the property. As we discuss below, which of these two amounts is allowed as a deduction depends on the type of property being donated and the length of time the property was owned by the taxpayer before being donated.

Taxpayers may lose all or part of their claimed deduction if any of the following apply:

- If l**ess than 100%** of the taxpayer's ownership interest is donated: The taxpayer may own only a fractional interest in the property being donated (such as a co-owned painting being donated to a museum). Regardless, the taxpayer must donate 100% of whatever that fractional interest might be.

- If the donated property is **not of a related-use** to the mission of the organization receiving the donation: The related-use rule requires that the use of the donated object by the donee organization be related to the purpose or the function constituting the basis for the organization's charitable exemption under IRC Section 501. If you donate land so the local homeless shelter can build a new facility to house more people or if you donate a painting to a museum, you can write off the full fair market value of the properties because the donations are of a type of property that has a use which is related to the mission of the charity. But donating the same properties to a charitable beekeeping club would not be considered of a **related-use**. In such a scenario, you would only get a deduction amounting to your basis in the property which is normally the price you originally paid for it.

  Note that it is the donor's responsibility to establish "related use;" accordingly, the donor should obtain from the donee/charity a letter stating that it is their intent to use the property for a purpose related to its mission.

  > **Charity Auctions**: Oftentimes taxpayers donate property to charities for sale at a charity auction fundraiser. Donors hope to be able to claim the fair market value of the property being sold. However, under these circumstances, the law limits a donor's charitable deduction to the donor's tax basis[216] in the contributed property and does not permit the donor to claim a fair market value charitable deduction for the contribution. The sale of an item is considered unrelated, even if the sale raises money for the charity to use in its related programs.[217]

- If the receiving organization is **not itself a qualifying** organization: In order to maximize the benefits of a charitable deduction, the donee organization must be a qualifying public (not private) IRS-approved charitable organization. In general, qualified public organizations include nonprofit groups that are religious, charitable, educational, scientific, or literary in purpose, or that work to prevent cruelty to children or animals.

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[216] The tax basis is normally what the donor paid for the property being donated to the charity auction. For more about basis, see IRS Pub 551 *Basis of Assets.*

[217] For a detailed explanation regarding charitable auctions, read the Planned Giving Design Center article entitled *Tax Considerations in Charitable Auctions* at pgdc.com/pgdc/tax-considerations-charitable-auctions.

Amount of Deduction

To determine how much a taxpayer may deduct for donated property we must know:

- If the property has either **decreased** or **increased** in fair market value relative to its **basis**, and
- The **length of time** the property has been owned by the taxpayer.

Giving Property that has Decreased in Fair Market Value Relative to its Basis

If the taxpayer contributes property with a fair market value that is **less** than his or her **basis** in it, then the taxpayer's deduction is limited to the property's fair market value. The "basis" is generally what the taxpayer originally paid for the item.[218]

Some common examples of donated property that has decreased in fair market value would include depreciable personal property such as used clothing, appliances and other common household goods. Typically, the fair market value of such property is significantly less when donated than what the taxpayer originally paid for the property.

Giving Property that has Increased in Fair Market Value Relative to its Basis

If the taxpayer contributes property with a fair market value that is **more** than his or her basis in it, two scenarios arise:

- The taxpayer may have to reduce the fair market value by the amount of appreciation (increased value) when he or she figures their deduction, or
- The taxpayer may be able to deduct the entire fair market value of the donated property, regardless of its basis.

Which of these differing rules apply depends on whether the property is **ordinary income property** or **capital gain property**.

- **Ordinary Income Property**

  Property is ordinary income property if its sale at its fair market value on the date it was contributed would have resulted in **ordinary income** or in **short-term capital gain**[219]. Examples of ordinary income property are inventory (e.g., dealer stock), works of art or manuscripts created by the donor, and capital assets[220] **held one year or less**.

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[218] See IRS Pub 551 *Basis of Assets* for a complete discussion of the term and how it applies to a taxpayer's income tax return.
[219] If you own the asset for less than one year before you dispose of it, your capital gain (or loss) is short-term. If you hold the asset for longer than one year before selling it, your capital gain (or loss) is long-term.
[220] The term "capital assets" is a business term that refers to company assets such as business property, plant machinery, equipment, etc.

The amount to deduct for the noncash charitable contribution of ordinary income property is its fair market value **less** the amount that would be ordinary income (or short-term capital gain) if it was sold for its fair market value. **This rule effectively limits the deduction to the taxpayer's basis, i.e., what the taxpayer paid for it.**

Ordinary income property would include, for instance, an 18th century French armoire I purchased for $3,500 for my personal use but within a year I realized it was simply too big for my home. Rather than selling it, I decided to donate it to my local historical society. Had I hypothetically sold it for its fair market value which was now $3,900, the sale would have generated a short-term capital gain (of $400). Consequently, the donated armoire is ordinary income property and my deduction would be limited to what I paid for it (i.e., only $3,500 which is its fair market value ($3,900) minus any short-term capital gain ($400) I might have realized had I actually sold it.)

Had I been a dealer and purchased the armoire as part of my inventory, I, again, would be limited to deducting what I paid for the item, i.e., its basis.[221]

- **Capital Gain Property**

As opposed to being **ordinary income** property, property is considered **capital gain** property if its sale at its fair market value on the date of contribution would have resulted in a **long-term capital gain**[222]. This category of property includes most appreciable items of personal property held for personal use or investment for a period **longer than one year**. Included are stocks, bonds, jewelry, coin or stamp collections, antiques, fine art, etc. used for personal purposes.

The amount to deduct for a donation of capital gain property is usually the full, appreciated **fair market value** of the donated property.

It is this **capital gain property** that the personal property appraiser is most often asked to appraise for noncash charitable contribution purposes.

Donating Business Inventory

By donating items that today are collecting dust on a warehouse floor or a retail outlet shelf, businesses can save the cost of other expenses related to maintaining the inventory, including the cost of warehousing, handling, and/or disposing of the items. Businesses, actually, can have four different types of inventory: merchandise, raw materials, work-in-process and finished goods. All four types can be a deductible expense if given to eligible charities.

If a **regular (C) corporation** donates excess inventory (i.e., ordinary income property) to certain qualified charities, it can take a federal tax deduction of as much as twice the cost of the goods.[223]

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[221] See the below section of this Chapter entitled *Donating Business Inventory* for an expanded explanation regarding donating business stock.
[222] In the simplest terms, you will realize a long-term capital gain if you sell a property held for more than one year for more than your adjusted basis which, most often, is what you originally paid for it.
[223] The deduction for S corporations, partnerships and sole proprietorships, however, is limited to their adjusted cost basis.

The rules are spelled out in tax code section 170(e)(3) which permit C corporations to deduct the cost of donated inventory, plus half the difference between cost and fair market value, with a maximum deduction of twice the basis of the property. For example, assume a C corporation donates a pen in which it has a basis of $1 and which it sells for $2. The deduction is $1.50 [cost ($1) + half the difference between cost and selling price ($0.50)].

Here is an example that might apply to an **S corporation, partnership or sole proprietorship** antiques dealer. When an antiques dealer donates excess inventory, the amount of the dealer's deductible contribution is generally the inventory's fair market value (FMV) minus any ordinary income that would have been realized if the item had been sold at its fair market value on the date the donation was made. This normally limits the deduction to the donor's basis in the property, which is often what the dealer originally paid for it.

Assume you own an art gallery and have a porcelain vase sitting in your inventory that cost you $90 (this is your basis). At the end of the year, you decide to donate the vase. On that date, your retail price of the vase was $200, which you feel was also the item's fair market value. Had you hypothetically sold the vase on that date, your ordinary income would have been $110 ($200 retail less your $90 cost). So, what's the amount you can take as a donation? The answer is that you can only deduct your basis of $90 which equates to the item's fair market value of $200 minus the ordinary income of $110 that would have been realized had the item been sold.[224]

Donating Art Obtained from the Creator (by Gift or Purchase?)

When a taxpayer makes a donation of property that was obtained from the creator of the art, the amount of the deduction will vary depending on whether the property was **gifted** to the taxpayer or whether the taxpayer **purchased** the property from the creator.

- Property that was gifted by the creator to the taxpayer continues to be considered as **ordinary income property**. Accordingly, property received by the taxpayer as a gift from the creator has the same basis to the taxpayer as it did to the creator. For property gifted from the creator, the taxpayer can deduct only its basis. Often this is a meager amount and normally includes only the cost of materials used in the production of the work of art.

- But property obtained from the creator through purchase by the taxpayer becomes **capital gain property** which could result in a significantly increased deduction since with capital gain property the taxpayer can deduct the property's **fair market value** rather than merely its **basis**.[225]

IRS Form 8283: When a Qualified Appraisal by a Qualified Appraiser is and is Not Required

How to report the deduction, which forms to use, and whether or not a **qualified appraiser** is needed to provide a **qualified appraisal** as proof of value depends on the value of the property

[224] IRS Pub. 526 *Charitable Contributions* briefly discusses donating business inventory, but business taxpayers might want to discuss inventory donations with their accountant or tax return preparer.
[225] See IRS Pub. 551 *Basis of Assets*.

being donated in a given tax year. For donations in excess of $500, the taxpayer is required to complete and attach IRS Form 8283 to the return.[226], [227]

- **Valued at Under $500**

  Noncash charitable contributions of items with a fair market value totaling less than $500 are reported only on the taxpayer's Schedule A *Itemized Deductions* and do not require the use of IRS Form 8283; nor do they require a qualified appraisal by a qualified appraiser to support the claimed deduction. Note that for any contribution of $250 or more (including contributions of cash or property), taxpayers must obtain and keep in their records a contemporaneous written acknowledgment from the qualified organization indicating the amount of the cash and/or a description of any property contributed.

  IRS Instructions for Form 8283 *Noncash Charitable Contributions* now require that donated household items (defined as furniture, furnishings, electronics, appliances, linens, and other similar items but excluding food, paintings, antiques, and other objects of art, jewelry and gems, and collections) be in good used condition or better in order to qualify for a deduction. Items in fair to poor condition no longer qualify for a deduction. See below **Exception.**

- **Valued between $500 and $5,000: Taxpayer Uses IRS Form 8283 Section A**

  Noncash charitable contributions of items (or groups of similar items[228]) with a fair market value totaling between $500 and $5,000 are reported by the taxpayer on IRS Form 8283 *Noncash Charitable Contributions*, Section A, and **normally** do not (see next paragraph for exception) require a qualified appraisal to support the claimed deduction. Between $500 and $5,000, the taxpayer is required to keep on file a written acknowledgement of the contribution from the qualified organization. Taxpayer records must also include how the property was acquired, the date acquired, and the taxpayer's cost or other basis in the property.



Note that Section A, Part 1, Column (i) of IRS Form 8283 requires the taxpayer to enter the method the taxpayer used to determine fair market value. Examples of entries that the taxpayer might use include "appraisal," "thrift shop value" (e.g., for clothing or household items), or "comparable sales" (e.g., auction sales of comparable property).

Exception: Section 1216 of the Pension Protection Act of 2006 was interpreted by Treasury Regulation §1.170A-18 which now requires that taxpayers **attach** a qualified appraisal by a qualified appraiser to their returns if claiming a deduction for the contribution of an individual item of clothing or any single "household item" in **less than**

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[226] See Appendix O *IRS Form 8283 Noncash Charitable Contributions.*

[227] Note that IRS Form 8283 is NOT part of the appraisal report. Though the appraiser may be required to sign IRS Form 8283, it is the taxpayer's responsibility to complete and attach it to his or her return if applicable. The appraiser might complete sections of the form, but it is not part of the appraisal report.

[228] "Similar items" of property are considered to be items of the same generic category or type, such as stamp collections, coin collections, lithographs, paintings, books, etc. See the below Chapter 4 section entitled *"Similar Items" for Donation Purposes.*

good used condition that has an appraised fair market value **in excess of $500** per item.[229]

- "Household items" are defined by §1.170A-18 as furniture, furnishings, electronics, appliances, linens, and other similar items but exclude gems and jewelry, collections, antiques, objects of art, and paintings. This exception might include, for example, a battered item of appreciable property such as a tattered first edition of a rare book, or a non-working collectible early television set or radio, or a piece of vintage clothing.

  > *You cannot claim a deduction for clothing or household items you donate after August 17, 2006, unless the clothing or household items are in good used condition or better. However, you can claim a deduction for a contribution of an item of clothing or household item that is not in good used condition or better if you deduct more than $500 for it and include a qualified appraisal of it with your return.* (IRS Instructions for Form 8283 *Noncash Charitable Contributions*)

- If the item is **not** in good used condition or better and a deduction in excess of $500 is claimed, the taxpayer must obtain a qualified appraisal and file a completed Form 8283 (Section B) with the return on which the deduction is claimed.

- If the item **is** in good used condition or better and a deduction in excess of $500 is claimed, the taxpayer must file a completed Form 8283 (Section A or B depending on the claimed amount), but a qualified appraisal is required only if the claimed contribution amount exceeds $5,000.

- **Valued Over $5,000: Taxpayer Uses IRS Form 8283 Section B**[230], [231]

  The taxpayer is required to submit Form 8283 Section B when donating items (or groups of similar items) for which a deduction of **more than $5,000** is being claimed.

  Section B, Part I lists individual items or groups of similar items such as coin collections, gems and jewelry, books, stamp collections and "art." **Art** is considered to be oil paintings, watercolors, prints, sculptures, antique furniture, decorative arts including silver and ceramics, etc. With the exception of publicly traded securities, donated property valued in excess of $5,000 must be reported in Section B and will require the inclusion of fair market values that are based on a **qualified appraisal** written by a **qualified appraiser**.[232]

  Note that this appraisal rule applies if you give "similar items" of property having a total value exceeding $5,000 even if you gave the items to different charitable organizations.

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[229] See Appendix X *Treasury Regulation §1.170A-18 Contributions of Clothing and Household Items*, and Appendix Y *Pension Protection Act of 2006 Section 1216.*

[230] See Appendix O *IRS Form 8283 Noncash Charitable Contributions.*

[231] Section B of IRS Form 8283 is referred to by the IRS as the **Appraisal Summary**.

[232] In addition, for items or groupings of similar items exceeding $500 in fair market value, the taxpayer must disclose on Form 8283 how the donated property was acquired, the date acquired, and the taxpayer's cost or other basis in the property.

For example, if you donate six paintings each worth $1,000 to six different charities, the rule requiring that the six items be appraised would still apply because the **aggregate** value exceeded the $5,000 threshold.

For noncash charitable contributions in excess of $5,000 (as well as for contributions of clothing and household items in less than good condition and valued at over $500), the appraiser must complete, sign and date IRS Form 8283, Section B, Part III *Declaration of Appraiser*, providing the appraiser's name, address and taxpayer identification number.



IRS Pub 561 *Determining the Value of Donated Property* states that for items or groups of like items totaling over $5,000 *"[The taxpayer] must attach a separate Form 8283 for each item of contributed property that is not part of a group of similar items."*

However, if the donor gave items to more than one donee for which the taxpayer claimed a total deduction of more than $5,000, the taxpayer must attach to his or her tax return a separate Form 8283 for each donee.

IRS Form 8283, Section B, Part I, Line 5, column (a) requires the taxpayer's description of the donated property in an extremely small space. The IRS Art Appraisal Services suggests that the taxpayer enter a noun name for the item followed by "See attached appraisal."



"Similar Items" for Donation Purposes

Several issues regarding the proper completion of donation appraisals as well as of IRS Form 8283 are contingent on whether or not the items of personal property being donated are or are not "similar" in nature.

IRS Pub 561, describes the phrase "similar items" as meaning property of the same generic category or type (regardless of whether or not all the listed similar items are being donated to the same donee). Examples of property types which would qualify as being "similar" include stamp or coin collections, lithographs, paintings, photographs, books, clothing, jewelry, furniture, electronic equipment, household appliances, toys, everyday kitchenware, fine china, crystal or silverware.

Here are some relevant scenarios and what is required of the taxpayer regarding the submission of Forms 8283 and related appraisals depending on whether the property being donated consists of similar or dissimilar items:

- **Similar Items**
    - **Multiple, similar items all of which are valued separately at less than $5,000 but in the aggregate are valued at $5,000 or more**: When there are multiple items that are considered to be of a "similar" property type (e.g., all pieces are sterling silver flatware or all donated items are coins) each of which is valued at less than $5,000 but in the aggregate are valued at $5,000 or more, an appraisal must be performed on this group of similar items.[233] The taxpayer must submit

[233] If, in a group of similar items, there exists items individually valued at $5,000 or more, such items should be removed from the group of similar items and be the subject of their own, individual Forms

an appraiser-signed Form 8283 (Section B) for each group of similar items valued at $5,000 or more. A single appraisal report containing all items being donated (including the groups of similar items valued at $5,000 or more) is acceptable as long as all items are going to the same donee as of the same effective date; otherwise, make use of multiple appraisals and multiple appraiser-signed Forms 8283.

- **Dissimilar Items**

    - **Multiple, dissimilar items valued at less than $5,000 each**: When multiple donated items that are not similar, are each valued at less than $5000, and are all being donated to the same donee, the taxpayer need submit only one Form 8283 (taxpayer completes Section A) without the need for a qualified appraisal to support the deduction.

    - **Multiple, dissimilar items with one or more of the items valued at $5,000 or more**: When there are multiple items which are not similar and one or more of the items is valued at $5,000 or more, a separate Form 8283 (taxpayer completes Section B) signed by the appraiser is required for each item valued at $5,000 or more. A single appraisal report containing all the items (including those items valued at $5,000 or more) is acceptable as long as all items are going to the same donee as of the same effective date; otherwise, make use of multiple appraisals and multiple appraiser-signed Forms 8283.

Declaration of Appraiser

Section B, Part III of Form 8283 is the "Declaration of Appraiser" which must be completed and signed by a qualified appraiser. The requirements to be a **qualified** appraiser were mentioned earlier in this chapter. In Part III of Section B, the appraiser attests:

> *"I declare that I am not the donor, the donee, a party to the transaction in which the donor acquired the property, employed by, or related to any of the foregoing persons, or married to any person who is related to any of the foregoing persons. And, if regularly used by the donor, donee, or party to the transaction, I performed the majority of my appraisals during my tax year for other persons.*
>
> *Also, I declare that I hold myself out to the public as an appraiser or perform appraisals on a regular basis; and that because of my qualifications as described in the appraisal, I am qualified to make appraisals of the type of property being valued. I certify that the appraisal fees were not based on a percentage of the appraised property value. Furthermore, I understand that a false or fraudulent overstatement of the property value as described in the qualified appraisal or this Form 8283 may subject me to the penalty under IRC section 6701(a) (aiding and abetting the understatement of tax liability). In addition, I understand that a substantial or gross valuation misstatement resulting from the appraisal of the value of the property that I know, or reasonably should know, would be used in connection with a return or claim for refund, may subject me to the penalty*

8283.The aggregate value of the group of remaining similar items should be recalculated (given the removal from the group of these individual high-valued items) and Form 8283 submitted accordingly.

under IRC section 6695A. I affirm that I have not been barred from presenting evidence or testimony by the Office of Professional Responsibility."

Though it might appear otherwise, the appraiser's signature of Part III (Section B) Form 8283 is **not** meant to render the appraiser accountable for **all** information on the form. Some appraisers wish to make it very clear what information they do and what information they do not take responsibility for putting on Form 8283. Here is a suggested statement for those appraisers to incorporate in a noncash charitable contribution appraisal report:

"The appraisal done in support of the accompanying IRS Form 8283 was done for income tax purposes and was intended to generate the data needed by the donor for Section B, Part I, line 5, columns (a), (b), and (c). The appraiser is not responsible for the content of Section B, Part I, line 4 or line 5, columns (d), (e), (f), (g), (h), or (i)."

Donee Acknowledgment of Contribution

For donations exceeding $250, IRS Pub. 557 *Tax-Exempt Status for Your Organization* states that the donor is responsible for requesting and obtaining the written acknowledgment from the donee. In addition, Part IV of Form 8283, Sec. B must be completed by the donee organization for donations exceeding $5,000 in fair market value.

Determining Fair Market Value

In IRS Pub. 561 *Determining the Value of Donated Property*, the IRS offers the taxpayer five methods for proving the fair market value of deductions being claimed for noncash charitable contributions. For noncash charitable contributions of items (or of collections of similar items) valued in excess of $5,000 per item or for the collection, the employment of a qualified appraiser (Method 5 below) is mandated. Also, for the contribution of clothing or household items in less than good used condition and valued in excess of $500, an appraiser (Method 5) is also required.

- **Method 1:** The taxpayer can **deduct his or her cost** for the donated property, or **its selling price** if subsequently sold by the donee (such as is often done with automobiles donated to a charity). However, this method may have little weight if the property was not bought (or sold) reasonably close to the date of donation. Such transactions would have to have been at arm's-length, neither seller nor buyer could have been under compulsion to act, both must have had knowledge of relevant information, and the market cannot have changed significantly between the date of purchase or sale and the valuation date.

- **Method 2**: The taxpayer can make use of past sales prices for comparable properties to prove fair market value. **This method is normally the most convincing way to prove fair market value and is the methodology that would be used by a qualified appraiser should one be retained such as would be done in Method 5.** Weight given to the sales data will depend on the degree of similarity between the subject property and the comparable property, whether the market has changed since the date of the comparable sale and the date of donation, whether the comparable sale was arm's-length, and whether the buyer and seller were equally knowledgeable. If the market had changed significantly (e.g., the market demand as of the date of donation is considerably higher (or lower) than was demand on the date the comparable property was sold), adjustments

in the sales price of the comparable property can be made in order to reflect that change.

- **Method 3**: For **depreciable** property, the taxpayer can make use of replacement cost if there can be shown a reasonable relationship between replacement cost and fair market value. To determine the replacement cost, one must find the replacement cost (new) and from that figure subtract an amount for depreciation due to obsolescence and to the changes in physical condition of the property.

  Note, however, that **often there is little relationship** between replacement cost (new) less depreciation and fair market value. Frequently, the cost to replace an item will be far in excess of the item's fair market value. The cost of conducting another safari to Africa would greatly exceed the fair market value of a mounted lion that is being donated to a museum.

- **Method 4**: The taxpayer can also offer the opinions of experts. Rev. Proc. 66-49[234] states, "*Generally, the weight to be given to opinion evidence depends on its origin and the thoroughness with which it is supported by experience and facts. It is only where expert opinion is supported by facts having strong probative value, that the opinion testimony will be given appropriate weight. The underlying facts must corroborate the opinion; otherwise such opinion will be discounted or disregarded."* Experts can include museum curators to attest to authenticity, dealers to provide opinions of value, authors, authenticators/graders, and others who are recognized within the trade as having extraordinary knowledge regarding the subject property.

- **Method 5**: The taxpayer can also offer a "qualified" appraisal done by a "qualified" appraiser as proof fair market value. The weight to be accorded the appraisal will depend largely upon the competency and knowledge of the appraiser with respect to the property and upon the facts on which the appraiser based his or her value conclusions.

  When donating items worth over $5,000, the taxpayer is **required** to obtain a qualified appraisal from a qualified appraiser. As mentioned earlier, new regulations now require that a qualified appraisal also be submitted with the tax return when items of household property in excess of $500 per item are donated if those items are in less than good used condition.[235]

Comparable Sales Chosen as a Basis for Fair Market Value

Here are some important points to remember regarding the comparable sales chosen by the appraiser on which to base an opinion of fair market value (FMV). Comparable sales used by the appraiser must conform to the following criteria regarding FMV; otherwise, those comparable sales cannot be used as a basis for the appraiser's opinions and must be discarded from consideration:

- FMV is a **hypothetical** value in that it assumes the subject property is **not** sold, so it represents the **gross** proceeds and not the **net** proceeds that the comparable sales realized. Make use of the gross proceeds for the comparable sale and not merely the amount it

[234] See Appendix V *Revenue Procedure 66-49 Appraisal Guidelines and Formats*.
[235] See Appendix S *Treasury Regulation §1.170A*-17(b) *Definition of Qualified Appraiser*; Appendix R *Treasury Regulation §1.170A-17(a) Definition of Qualified Appraisal*, and Appendix Y *Pension Protection Act of 2006 Section 1216.*

netted after expenses had been subtracted.

- FMV assumes the hypothetical buyer and seller are reasonably knowledgeable of relevant facts including being informed as to the relevant characteristics of the subject property. That both parties are reasonably knowledgeable is not always the case in real life, though it is probably impossible to prove one way or the other. Having said that, should you become aware that one party or the other to a sale was ill-informed and not reasonably knowledgeable, do not make use of that sale in your analysis.

- FMV assumes that neither the buyer nor the seller is under any compulsion to act. The comparable sales you use must have been between parties who were not under pressure to buy or to sell. Do not use comparable sales which resulted from either the buyer or the seller being under duress or compulsion to act.

- Comparable sales used to support FMV cannot have come from a forced sale in which inadequate time was available to properly prepare for and advertise the sale. Comparable sales must come from an orderly liquidation in which reasonable time was available to adequately expose the property to the marketplace.

- Comparable sales used to support FMV must have come from sales within the market in which **retail** sales to the **end-user** of the subject property **most commonly** occur. The most common market for used children's clothing might be a yard sale. The most common market for a fine painting might be an international auction house or retail sales from a dealer to the collector. The determination as to what constitutes the most common market is the responsibility of the appraiser and is based on the appraiser's judgment and experience.

- Comparable sales used to support FMV must have come from sales which were made to the retail public, i.e., the consumer, the end user, the collector. Comparable sales made wholesale to dealers who are intent on reselling the property are inappropriate comparable sales to use in support of fair market value. Having said that, it is often difficult to determine whether the comparable sale being considered as a basis for an opinion of value was actually a sale made to a retail consumer or whether it was to a wholesale buyer who was intent on reselling the item. Because of the large number of collectors buying at auction, given no reason to think otherwise, it is often assumed by the appraiser that the auction buyer was, indeed, a retail purchaser.

Changes to "Qualified Appraiser" and "Qualified Appraisal" Caused by Public Law 109-280 *Pension Protection Act of 2006*



Public Law 109-280 *Pension Protection Act of 2006* (PPA) contains a number of provisions which amended the Treasury Regulations. Certain of these amendments change the way tax-related valuations must be performed by all appraisers including members of the personal property discipline.[236]

[236] Initial guidance to the appraisal-related requirements of the PPA were issued in 2006 by the IRS in *Notice 2006-96.* Then in 2008 the IRS promulgated Proposed Treasury Regulations on the subject of charitable contribution deduction and substantiation requirements. The Proposed Regulations were finalized and became law effective July 30, 2018. See Appendix S *Treasury Regulation §1.170A-17(a)*

The new regulations amend the statutory definitions of a **qualified appraisal** and **qualified appraiser** for noncash **charitable contribution** appraisals (in which a deduction of more than $5,000 is claimed on returns) prepared with respect to returns filed after August 17, 2006. While focusing on noncash charitable contribution appraisals, it is possible that these new regulations will eventually be expanded to also cover all federally-related appraisals including appraisals done for estate and gift tax purposes.

Note that §1.170A-18 of the new Treasury Regulations **eliminates** noncash charitable deductions for most **clothing** and common **household items** (which the regulation defines as furniture, furnishings, appliances, linens and similar such items but excluding gems and jewelry, collections, antiques, objects of art, and paintings) that are in **less** than good condition and/or have minimal value. However, the taxpayer may deduct donated clothing and "household items" that are in less than good used condition having an appraised fair market value in excess of $500 per item if supported by a qualified appraisal attached to the return. This could be, for example, a battered item of appreciable property such as a tattered first edition of a rare book, a non-working collectible early television set or radio, or a used automobile.

By the way, the allowed deduction for a donated car is normally limited to the amount the car brings when it's sold at auction, in which case an appraisal would not be needed. There are, however, some situations in which the taxpayer is permitted to claim the car's fair market value: if the charity significantly improves the vehicle, makes significant use of it, or gives the vehicle (or sells it at a discount) to a poor person who needs transportation. In such cases, a qualified appraisal would be required if the car was value in excess of $5,000 or if valued in excess of $500 but in less than good condition.[237]

Qualified Appraiser



A **qualified appraiser** is an individual who:

1. Has **verifiable education and experience** in valuing the **type of property** for which the appraisal is performed.

    a. An individual is treated as having **education and experience** in valuing the type of property, as of the date the individual signs the appraisal, if the individual has:

        i. Successfully completed (for example, received a passing grade on a final examination) **professional or college-level coursework in valuing the type of property**, and has **two or more years of experience in valuing the relevant type of property,** or

        ii. Earned a recognized appraisal designation for the type of property. (Because significant education and experience are required to obtain a designation from a recognized professional appraiser organization, appraisers with these designations are deemed to have demonstrated

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Definition of Qualified Appraisal, and Appendix R *Treasury Regulation §1.170A-17(b) Definition of Qualified Appraiser.*

[237] Search the IRS.gov website for the latest regulations regarding the donation of vehicles.

sufficient verifiable education and experience.)

b. The **coursework** must be obtained from:

i. A professional or college-level educational organization described in IRC Section 170(b)(1)(A)(ii),



ii. A generally **recognized professional trade or appraiser organization** that regularly offers educational programs in valuing the type of property; or

iii. An employer as part of an employee apprenticeship or educational program in valuing the type of property.

c. A **recognized appraisal designation** is a designation awarded by a recognized professional appraiser organization on the basis of demonstrated competency.

d. The **type of property** means the category of property customary in the appraisal field for an appraiser to value.[238]

e. Education and experience in valuing the relevant type of property are considered **verifiable** 1) if the appraiser specifies in the appraisal the appraiser's education and experience in valuing the type of property, and 2) the appraiser makes a declaration in the appraisal that, because of the appraiser's education and experience, the appraiser is qualified to make appraisals of the type of property being valued.

2. Has not been **prohibited** from practicing before the Internal Revenue Service by the Secretary under Internal Revenue Code §330(c) of Title 31 of the United States Code at any time during the 3-year period ending on the date of the appraisal, and

3. Appends a **Certification Statement** that the appraiser understands that a substantial or gross valuation misstatement resulting from an appraisal of the value of property that the appraiser knows, or reasonably should have known, would be used in connection with a return or claim for refund, may subject the appraiser to a civil penalty under Internal Revenue Code §6695A.

The §6695A Penalty: Prior to the Pension Protection Act of 2006 (Pub. L. No. 109-280), only appraisers could be subject to penalties if they promoted abusive tax shelters or for aiding and abetting an understatement of a taxpayer's tax liability. But Section 1219 of the Pension Protection Act of 2006 added Internal Revenue Code IRC §6695A *Substantial and Gross Valuation Misstatements Attributable to Incorrect Appraisals*. This new penalty provision allows the IRS to penalize **any** person (e.g., appraiser, realtor, trustee, accountant, attorney, etc.) who prepared an appraisal and who 1) knew, or reasonably should have known, that the appraisal would be used in connection with a return or claim for refund and 2) that the appraisal results in a substantial valuation misstatement (within the meaning of IRC §6662(e)), a substantial estate or gift tax valuation

[238] For examples, see Appendix S *Treasury Regulation §1.170A-17(b) Definition of Qualified Appraiser*

understatement (within the meaning of IRC §6662(g)), or a gross valuation misstatement (within the meaning of IRC §6662(h)) with respect to such property.

The amount of the IRC 6695A penalty can range from $1,000 to 125% of the gross income received for having prepared the appraisal to 10% of the amount of tax liability underpayment. The penalty does not apply if the appraiser can establish that the appraisal value "more likely than not" was correct.[239]

4. Signs the **Declaration of Appraiser** which is found in Section B, Part III of Form 8283[240]

5. **Regularly prepares appraisals** for which he or she is paid.

6. Is not an **excluded** individual.

Excluded Individuals

According to IRS Pub 561 *Determining the Value of Donated Property,* the following persons are considered to be "excluded individuals" and, therefore, cannot be qualified appraisers with respect to the particular property:

- An individual who receives a prohibited type of fee such as one based to any extent on the appraised value of the property
- The donor of the property
- The taxpayer who claims the deduction
- A party to the transaction in which the donor acquired the property being appraised, **unless** the property 1) is donated within two months of the date of acquisition, and 2) its appraised value does not exceed its acquisition price. This applies to the person who sold, exchanged, or gave the property to the donor, or any person who acted as an agent for the transferor or donor in the transaction.
- The donee (i.e., the receiving organization)
- Any person employed by, married to or related to any of the above persons. For example, if the donor acquired a painting from an art dealer, neither the dealer nor persons employed by the dealer can be qualified appraisers for that painting.
- An appraiser who appraises regularly for the donor or donee and who does not perform a majority of appraisals for other persons; in other words, an appraiser who has the appearance of being an "employee" of the donor.
- In addition, *"...a person is not a qualified appraiser for a particular donation if the donor had knowledge of facts that would cause a reasonable person to expect the*

[239] For more about the §6695A penalty visit IRS.gov/irm/part20/irm_20-001-012.html.
[240] See Appendix O *IRS Form 8283 Noncash Charitable Contributions.*

appraiser to falsely overstate the value of the donated property." An example would be if the donor and the appraiser agreed to a predetermined value which the donor knows is too high (for a donation appraisal) or too low (for an estate appraisal).

Appraisers Who Are Museum Volunteers are Excluded Individuals

While Pub 561 clearly states that employees of the donee are excluded from doing appraisals, it does not address those appraisers who happen to serve in a volunteer capacity. Appraisers often volunteer to serve at museums or historical societies as committee members, docents, board members or assistants to paid staffers such as librarians or curators.

The underlying issue, as is often the case, involves actual (or perceived) appraiser bias. The ETHICS RULE of USPAP prohibits the appraiser from performing an assignment with *Bias*, which USPAP defines as:

> *BIAS: a preference or inclination that precludes an appraiser's impartiality, independence, or objectivity in an assignment.*

To be biased is such a natural inclination that it would be hard for any volunteer serving in an official capacity to argue that they did not have a bias which was favorable to their institution. More importantly (and more to the point), a "reasonable person" would likely feel the same way.

While the issue of volunteer appraisers is not addressed in IRS Pub 561, when asked, an IRS representative stated to me:

> *"I would consider board members or committee members, even volunteers, as being prohibited from appraising items donated to their institution."*

Qualified Appraisal

The weight given to an appraisal depends on the completeness of the report and the qualifications of the appraiser including the appraiser's demonstrated knowledge of the donated property. An appraisal report must disclose all the facts on which the appraiser basis his or her opinion of value. The appraisal will not be given much weight if:

- All the factors that apply to the assignment are not considered by the appraiser,
- The opinion of value is not supported with facts, such as purchase price, sales price, comparable sales or other relevant market data, or
- The opinion is not consistent with known facts. The appraiser's opinion is never more valid than the facts on which it is based; without these facts, the opinion is simply a guess.



For donation appraisals, a **qualified appraisal**, is considered by the IRS to be a document that:

- Relates to an appraisal that is made no earlier than 60 days prior to the date of contribution of the appraised property,
    - By the way, if preparing a donation appraisal prior to the date of contribution, it might be helpful to include a statement such as the following in the report as a reminder:

      > *As noted in IRS Pub 561, among other requirements, a qualified appraisal "Relates to an appraisal made no earlier than 60 days before the date of contribution of the appraised property." Accordingly, in order for this report to be used for its intended purpose, the subject property must be donated within 60 days of the date of this report."*

- Does not involve a prohibited appraisal fee such as a fee based on a percentage of the appraised value,
- Includes the required information (see below), and
- Is prepared, signed, and dated by a qualified appraiser

Treasury Regulation §1.170A-17(a)[241] defines a **qualified** appraisal as one that (in addition to the above):

- Is conducted in accordance with "generally accepted appraisal standards." **Generally accepted appraisal standards are those that comply with the substance and principles of the *Uniform Standards of Professional Appraisal Practice***, as developed by the Appraisal Standards Board of the Appraisal Foundation are followed.

  In other words, for donation appraisals in which a deduction in excess of $5,000 is being claimed on a return, this new Regulation **requires** that the appraiser prepare an appraisal that is in compliance with the **substance and principles** of USPAP.

  Substance and Principles of USPAP Rule the Day

  Currently, there is only one "generally accepted appraisal standard" in the US. That is USPAP.

  In addition, there is no other standard (generally accepted or not) of which I am aware that conforms to the "substance and principles of USPAP." Single page check-off lists do not conform to the "substance and principles of USPAP." Nor, obviously, do standards which specifically state that they are not USPAP-based.

  Where does all this leave us? To me, it is clear that an individual who does not perform "qualified appraisals" (for donation appraisals of non-cash charitable contributions for which the taxpayer is claiming a deduction in excess of $5,000) in accordance with USPAP is a disqualified appraiser and, thus, prohibited from performing appraisals having such an intended use.

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[241] See Appendix R *Treasury Regulation §1.170A-17(a) Definition of Qualified Appraisal*

By What Date Must a Donation Appraisal be Prepared?

The Pension Protection Act of 2006 clarifies that the charity must take actual (not constructive) possession of the gift, and, as noted above, for donation appraisals prepared in advance of the taxpayer donating the property (i.e., in advance of the donee taking **actual** (as opposed to **constructive)** possession[242] of the property), the appraisal is valid for a period of 60 days.

But for donation appraisals prepared subsequent to the donee taking actual possession of the donated property, the appraisal must be prepared in time for the donor to file his or her income tax return. This is normally by April 15th of the year following the tax year for which the deduction is being claimed. It will be a later date if the taxpayer files for an extension.

By the way, there are a number of reasons as to why the date of gift (i.e., the date of delivery to the donee as documented on the deed of gift) is of importance:

- The deed of gift signifies that title to the property has, indeed, been transferred from the taxpayer to the donee effective as of the noted delivery date,
- That date of gift dictates the year in which the taxpayer can take any resulting deduction,
- The date of gift becomes the effective date of the appraisal which might have an impact on the appraiser's opinion of fair market value,
- The date of gift determines whether the donated property is considered to be ordinary income property or capital gain property, i.e., whether the holding period was more or less than 12 months

Required Information to be Included in a Qualified Appraisal for Noncash Charitable Contributions

- For donations in general, the IRS requires that a qualified appraisal contain the following information.[243]



- A description in sufficient detail under the circumstances, taking into account the value of the property, for a person who is not generally familiar with the type of property to ascertain that the appraised property is the contributed property.
- The physical condition of the property
- The date (or expected date) of donation
- The terms of any agreement or understanding entered into (or expected to be entered into) by or on behalf of the donor that relates to the use, sale or other disposition of the donated

[242] Constructive possession is a legal term to describe a situation where an entity has "legal control" over a property without actually having it in their physical possession. Example: I have constructive possession of a sterling silver teapot I lent to my local historical society for display. The society has "actual" possession, but I have "constructive" possession.

[243] For the donation of **works art**, however, the IRS requires additional specific information to be included in a qualified appraisal. We will discuss the additional content of art appraisals in the next section.

property. Such restrictions are in opposition to the intent of noncash charitable contributions in that they undermine usefulness of the donated property to fulfilling the mission of the donee. Usually the appraiser is not made aware of such limitations.

- The name, address and taxpayer identification number of the qualified appraiser and, if the appraiser is a partner, an employee, or an independent contractor engaged by a person other than the donor, the name, address and taxpayer identification number of the partnership or the person who employs or engages the appraiser.

- The qualifications of the qualified appraiser who signs the report, including the appraiser's background, experience, education, and any memberships in professional appraisal associations,

- A statement that the appraisal was prepared for income tax purposes,

- The date (or dates) on which the property was valued (i.e., examined or inspected),

- The fair market value[244] of the donated property as of the effective date of the appraisal or as of the expected date of contribution,

- The method of valuation used to determine fair market value such as the income approach, the sales comparison approach, or the cost approach,

- The specific basis for the valuation, such as your reasoning including any specific comparable sales transactions. I suggest you make use of the sound IRS guidance in Appendix BB *Guidance for Donation Appraisals of Art Valued Over $50,000—Object Identification* for all donation appraisals—not just for those having items with a fair market value in excess of $50,000 which is the class of property discussed in Appendix BB. Appendix BB states, in part:

  > *The appraisal of each work should provide the basis or reasoning as to how the appraiser arrived at the individual appraised value. Individual comparable sales should be included. These sales should be analyzed in terms of quality, etc. and discussed as to how they relate to the subject property. The item discussion should include commentary regarding any special conditions or circumstances about the property, and a discussion of the quality or importance of the property in relation to other works of art by the same artist, and of the state-of-the-art market at the time of valuation. Whenever possible, statements should be supported with factual evidence.*

- This declaration: the Instructions for IRS Form 8283 state:

  > *"...A qualified appraiser is an individual who...demonstrates verifiable education and experience in valuing the type of property being appraised.* ***To do this, the appraiser can make a declaration that, because of his or her background, experience, education, and membership in professional associations, he or she***

[244] Within the meaning of FMV as stated in Treasury Regulation §1.170A-1(c)(2). See Appendix EE *Treasury Regulation §1.170A-1(c).*

> ***is qualified to make appraisals of the type of property being valued. The declaration must be part of the appraisal.*** [emphasis added] ..."

- Treasury Regulation §1.170A-17(a) (see Appendix R) is the underlying source of the definition for the term "qualified appraisal" and requires that a qualified appraisal include:

  - *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.*

  - *A statement that the appraisal was prepared for income tax purposes.*

  The two above bullets can be combined into a generic declaration such as the following:

  > *My background, education, experience and membership in professional associations qualify me to make appraisals of the type of property that is the subject of this appraisal. A complete list of my qualifications can be found in my Professional Profile which is attached to this report. I understand that my appraisal will be used for income tax purposes.*



- Treasury Regulation §1.170A-17(a)(3)(vi) also requires that a qualified appraisal includes the following declaration by the appraiser:

  > *I understand that my appraisal will be used in connection with a return or claim for refund. I also understand that, if there is a substantial or gross valuation misstatement of the value of the property claimed on the return or claim for refund that is based on my appraisal, I may be subject to a penalty under section 6695A of the Internal Revenue Code, as well as other applicable penalties. I affirm that I have not been at any time in the three-year period ending on the date of the appraisal barred from presenting evidence or testimony before the Department of the Treasury or the Internal Revenue Service pursuant to 31 U.S.C. 330(c).*

Taxpayer Cost, Date, Manner of Acquisition

Note that according to IRS Pub 561, **except for works of art**, there is no requirement to include in the appraisal report the taxpayer's acquisition cost of the donated item or the manner or date of acquisition (or, if created, produced, or manufactured by the taxpayer the approximate date the property was substantially completed). Sure, the **taxpayer** is required to provide this information in Section B, Part I of IRS Form 8283,[245] but Form 8283 is **not** part of the appraisal report. Rather, it is a form that the taxpayer is required to attach to his or her federal income tax return.

However, IRS Pub 561 does require that for **works of art** the appraisal report **does need to include** the cost, date and manner of acquisition of the donated property. This requirement is further emphasized by supplemental IRS guidance that appraisals of art valued in excess of

[245] See Appendix O *IRS Form 8283 Noncash Charitable Contributions.*

$50,000 must include the taxpayer's acquisition cost of the donated item as well as the manner and date of acquisition.[246], [247]

Why is knowing the taxpayer's cost, date and manner of acquisition of works of art important to the appraiser? Because the taxpayer is going to note his or her acquisition cost and date on IRS Form 8283![248] If the appraised value differs significantly from the acquisition cost due to other than expected reasons (e.g., such as due to the passage of time and normal market variances, or due to a re-attribution of a work of art), the appraiser will need to offer an explanation in his or her report as to what caused such a significant shift in value.

Obviously, taxpayers forget or lose records from time to time, so not everyone will have this information available to give to the appraiser. A former IRS official told me:

> *"But it is amazing how many times I see a subject property having a recent sale price before the valuation date yet there is no acknowledgment of this sale price in the appraisal report. Are the appraisers not asking the right questions? I mean, don't you think such information as a recent sale price of the very item being appraised should be disclosed in the appraisal report? And if you are documenting your scope of work, don't you think it is important to record that you at least asked about cost/date/manner of acquisition, even if the reply was unhelpful?"*

Good points!

Art Donations: Additional Requirements

In IRS Pub 561 *Determining the Value of Donated Property*, the IRS provides examples of descriptive information that should be included in a qualified appraisal **for art objects** (and suggests that a similar breakdown of information also be made for other types of donated property). Note that "art" is defined by the IRS as including:

> *paintings, sculptures, watercolors, prints, drawings, ceramics, antiques, decorative arts, textiles, carpets, silver, rare manuscripts, historical memorabilia, and other similar objects.*

Pub 561 lists the following as examples of additional specific information to include in an appraisal report when appraising works of art for donation purposes:[249]

- A complete description including size, subject matter, medium, name of artist (or culture), and approximate date constructed

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[246] For more information on these guidelines see Appendix BB *IRS Guidance for Donation Appraisals of Art Valued Over $50,000—Object Identification*.

[247] Note that in its §4.48.3 *Tangible Personal Property Valuation Guides* of the *Internal Revenue Manual*, the IRS requires that IRS valuators gather the cost, date and manner of acquisition regardless of the type of property. See IRS.gov/irm/part4/irm_04-048-003.html.

[248] In addition, USPAP SR 7-5(b) requires the appraiser to analyze past sales of the subject property if occurring within a reasonable time.

[249] For additional required as well as optional appraisal report content refer to Chapter 11 *Writing an Appraisal Report.*

- History of the item including proof of authenticity
- A professional quality image of the property
- The facts upon which the appraisal was based, such as:
    - Sales and analysis of similar works by the artist, particularly on or around the valuation date
    - Quoted prices in dealers' catalogs of the artist's works or works of other artists having similar stature
    - A record of any exhibition at which the art object had been displayed
    - The economic state of the art market at the time of evaluation, particularly with respect to the specific property.
    - The standing of the artist in his or her profession and in the particular school or time period
- Cost, date and manner of acquisition. As noted above, this information is known by and provided by the taxpayer on Form 8283; however, Pub 561 also requires that cost, date and manner of acquisition be included in the appraisal report itself **when an art object** is being appraised. According to the IRS guidance found in Appendix BB, the appraiser should certainly identify and record this information in the appraisal report for items valued in excess of $50,000. Ask the client for this information when appraising art so that you can include it in your appraisal report for donated works of art—particularly for those items having a fair market value in excess of $50,000.

  Note that the information provided to you by the client regarding cost, date and manner of acquisition must be assumed by the appraiser to be correct. The appraiser might state in his or her report something to the effect of the following:

  Taxpayer Cost, Date and Manner of Acquisition

  *You stated that your cost to acquire the item that is the subject of this donation appraisal was **[$X]**, that the date of acquisition was **[date]** and that you acquired the item **[manner of acquisition, e.g.,** from Skinner's Auction Gallery**].***

  *Alternatively: "You stated that you received the item being appraised as a gift from **[source]** on **[date of gift]**.", or "You stated that you are unable to provide me with your cost, date and/or manner of acquisition."*

Examples of Valuation of Various Kinds of Property for the Intended Use of Noncash Charitable Contribution

A few common categories of typically-donated personal property are listed below along with issues regarding their respective fair market valuations as noted by the IRS in Pub 561 *Determining the Value of Donated Property.*

- **Household goods and used clothing**. The fair market value of household goods (depreciating property) such as furniture, appliances, and linens, is usually much lower than the price paid when new. Such used property may have little or no fair market value because of its worn and used condition. The property may even be out of style or outdated and no longer useful. The taxpayer should use comparable sales when valuing such items, but remember, the property must be in good used condition or better in order to qualify for deduction. Items in less than good used condition or that have no or minimal value are not normally eligible for a deduction. Used clothing and other personal items are also usually worth far less than the price paid for them new. (An exception is vintage clothing and related accessories.) The price that buyers of used items actually pay in second-hand stores, such as consignment or thrift shops, is a good indication of the fair market value of used clothing and other personal items.

  Recall that Section 1216 of the Pension Protection Act of 2006[250] generated new Treasury Regulations that **eliminated** noncash charitable deductions for most clothing and common **household items** (defined as furniture, furnishings, appliances, linens and similar such items but excluding gems and jewelry, collections, antiques, objects of art, and paintings) in less than good condition and/or having minimal value. The taxpayer normally does not require the assistance of a personal property appraiser to value household items and used clothing; however, the taxpayer may deduct clothing or "household items" that are in **less** than good used condition that have an appraised fair market value in excess of $500 per item only if supported by a qualified appraisal attached to the return.

- **Paintings, antiques and other objects of art**. Deductions for the contributions of paintings, antiques and other objects of art valued in excess of $5,000 per item or per collection of similar items must be supported by a qualified appraisal.[251]

  - **Art valued at $20,000 or more**. According to IRS Pub 561 *Determining the Value of Donated Property,* if a deduction of $20,000 or more is claimed for art, a complete copy of the signed appraisal **must be attached** to the tax return, and photographs of a size and quality fully showing the object, preferably a professional 8"x10" color photograph or a color transparency no smaller than 4"x5", must be provided by the taxpayer. The IRS will also accept high resolution digital images on a thumb drive accompanied by a high-resolution image printed on photographic paper (to produce sharp photographs) of each item. Appendix CC *IRS Guidance for Donation Appraisals of Art Valued Over $20,000—Photographs* contains guidance for the taxpayer regarding the submission, type, size and format of photographs for donated property exceeding $20,000 in fair market value. Note, though, that these requirements regarding photographs are, technically, directed at the taxpayer and not at the appraiser. It is the taxpayer (not the appraiser) who is responsible for providing the IRS with photographs of the required size, type and quality.

  - **Art valued at $50,000 or more**. Appendix BB contains guidance regarding how art objects in excess of $50,000 should be described in the Valuation Section of

[250] See Appendix Y *Pension Protection Act of 2006 Section 1216*.
[251] For a deduction valued at $5,000 or less, the qualified appraisal is optional. Exception: the taxpayer must obtain a qualified appraisal if the item is not in good used condition or better and a deduction in excess of $500 is claimed.

the report, including the basis (reasoning and comparable market data) on which the appraiser's opinion of value was based.

As noted above, appraisals for donated items valued in excess of $50,000 must include the taxpayer's cost, as well as the date and manner of acquisition. This information must be in the appraisal report and, yes, it should reflect the same information that the taxpayer is required to enter in Section B of IRS Form 8283. Obviously, you must get this information from the client.

- **Authenticity**. Certificates of authenticity may be useful, but this depends on the genuineness of the certificate and the qualifications of the authenticator. Appraisers are not necessarily authenticators and authenticators are not necessarily appraisers. Appraisers identify but may or may not authenticate; however, they must always exercise due diligence to determine if authentication services should be sought.

- **Physical condition and extent of restoration**. These have a significant effect on the value and must be fully reported in an appraisal. An antique table in damaged condition, or a 19th century tall chest of drawers having "replaced feet" may be worth much less than a similar piece in excellent condition.

- **Jewelry and gems** are of such a specialized nature that it is almost always necessary to get an appraisal by a specialized gemologist appraiser. The appraisal should describe, among other things, the style of the jewelry, the cut and setting of the gem, and whether it is now in fashion. If not in fashion, the possibility of having the property redesigned, re-cut, or reset should be reported in the appraisal. The stone's coloring, weight, cut, brilliance, and flaws should be reported and analyzed. Sentimental personal value has no effect on FMV, but if the jewelry was owned by a famous person its value might increase because of provenance.

- **Collections**. Many kinds of hobby collections may be the subject of a noncash charitable contribution. Most common are rare books, autographs, manuscripts, stamps, coins, guns, phonograph records, and natural history items. Many of the elements of valuation that apply to paintings and other objects of art, discussed earlier, also apply to collections. Collections in their totality may have a higher fair market value than the sum of the fair market value the items in the collection if taken individually.

- **Motor vehicles.** The deduction taken by taxpayers donating motor vehicles (automobiles, trucks, motor homes, boats or planes) to qualified organizations is normally limited to the gross proceeds received by the organization upon sale of the donated vehicle. In such scenarios, appraisals are not required. There are exceptions. For instance, if instead of selling the vehicle, the organization keeps and makes use of the vehicle, or if the organization gives or sells the vehicle to a needy individual, the taxpayer is entitled to deduct the fair market value of the donated vehicle. If the fair market value of the donated vehicle exceeds $5,000, a qualified appraisal by a qualified appraiser will be required.[252]

[252] See IRS Pub. 4303 *A Donor's Guide to Vehicle Donations.*

Special Considerations Regarding Donation Appraisals

The following special considerations apply when determining fair market value for certain categories of personal property:

- **Art Valued Over $20,000: Attach Appraisal Report to Tax Return**

  For noncash charitable contributions of art[253] such as paintings, antiques and objects of art in excess of $20,000, donors must attach the qualified appraisal to the tax return.[254] Having said that, the IRS Art Appraisal Services strongly recommends that a photocopy of the appraisal be attached to the tax return to reduce the possibility of the deduction generating an unnecessary audit. Similarly, while not required, the IRS Art Appraisal Services strongly recommends attaching photocopies of photographs of the donated items to the appraisal as well.

- **Paintings, Antiques and Objects of Art**

  Taxpayers and appraisers often refer to IRS Pub 561 *Determining the Value of Donated Property* in order to ascertain what constitutes a qualified appraisal, i.e., what IRS-required elements of information must be contained in appraisals of property being donated for which a deduction in excess of $5,000 is being claimed by the taxpayer. But in addition to Pub 561, the IRS Office of Art Appraisal Services (AAS) has issued additional amplifying guidance regarding the appraisal of certain categories of donated works of art as noted below relating to photographs and to object identification.

  Photographs of the Artwork

  Noting that cases submitted without photographs to the Art Advisory Panel for review cannot be processed in a timely manner, the AAS is now requiring that taxpayers always provide color images of each property having a claimed value in excess of $20,000.

  > *"Each object should be shown in its entirety with separate images depicting important details, such as the artist's signature, date, labels or other distinguishing features (including damage and repairs). Multiple views are helpful for 3-dimensional works of art."* (AAS)

  Photo format options include transparencies, print photographs and high-resolution color digital images.[255]

  Identification of the Artwork

  Having to do with the artwork's description as well as the appraiser's reasoning, the second guidance relates to art valued in excess of $50,000[256] and regards identifying the

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[253] "Art" includes paintings, sculptures, watercolors, prints, drawings, ceramics, antiques, decorative arts, textiles, carpets, silver, rare manuscripts, historical memorabilia, and other similar objects.
[254] As per IRS Pub 561 *Determining the Value of Donated Property*.
[255] See Appendix CC *IRS Guidance for Donation Appraisals of Art Valued Over $20,000—Photographs*.
[256] See Appendix BB *IRS Guidance for Donation Appraisals of Art Valued Over $50,000—Object Identification*.

artwork's relevant characteristics with "art" being defined as *"paintings, sculptures, watercolors, prints, drawings, ceramics, antiques, decorative arts, textiles, carpets, silver, rare manuscripts, historical memorabilia, and other similar objects."*

If need be, the appraiser should not hesitate to supplement the IRS's recommended format with whatever additional descriptive information the appraiser feels is necessary to ensure that the appraisal report is complete, understandable and non-misleading. For instance, while not mentioned in the guidance, if a painting is framed, the appraiser would want to include information regarding the frame as well the painting.

This guidance addresses more than just identifying the donated property. It also:

- Calls for the appraisal report to include the taxpayer's acquisition cost of the donated item as well as the source and date of acquisition (obtain this information from the client),
- Suggests a format for reporting comparable sales (including photos of the comparable sales and/or auction catalog page numbers) on which the value opinion is based,
- Encourages a reasoned approach to developing an opinion of value based on the comparable sales including a comparative analysis of how the relevant characteristics of the comparable properties relate to those of the subject property.

- **Value Over $50,000: Rev. Proc. 96-15 Taxpayer Can Request Statement of Value**

For items of art valued at over $50,000, Rev. Proc. 96-15 provides a process whereby taxpayers can request from the Internal Revenue Service a **Statement of Value** that can be used to substantiate the value of art for income, estate, or gift tax purposes. A taxpayer who complies with the provisions of this revenue procedure may rely with certainty on the approved Statement of Value when completing his or her federal income tax, estate tax, or gift tax return that reports the transfer of art.[257]

The taxpayer must request the statement before filing the tax return that reports the noncash charitable contribution. The request must include the following:

- A copy of a **qualified appraisal** of the item including a color photo at least 8" X 10" or a color transparency at least 4" X 5",
- A $2,500 check or money order payable to the Internal Revenue Service for the user fee that covers up to three items of art. Add $250 for each item in excess of three,
- A completed Form 8283, Section B, and

[257] See Revenue Procedure 96-15 Post Contribution Pre-Filing Procedure in Appendix W.

- The location of the IRS territory that has examination responsibility for your return.

If approved by the IRS, the Statement of Value guarantees acceptance of the claimed amount. For noncash charitable contributions, the taxpayer must request the statement before filing the tax return that reports the contribution—but only **after** the art has been transferred to the qualifying donee organization.[258]

Referral to the Art Appraisal Services

According to §4.48.2 *Valuation Assistance for Cases Involving Works of Art* of its *Internal Revenue Manual* (IRM),[259] all taxpayer cases selected for audit which contain artwork with a claimed value of $50,000 or more per item must be referred to Art Appraisal Services for possible review by the Commissioner's Art Advisory Panel. The Manual states:

> *IRS employees must refer cases to AAS that involve a taxpayer's appraisal of a single work of art with a claimed value of $50,000 or more, including paintings, drawings, prints, sculptures, antiques, ceramics, decorative arts, textiles, carpets, silver, rare manuscripts, antiquities, ethnographic art, collectibles, classic automobiles, and historical memorabilia. Subject to the discretion of AAS, the taxpayer's appraisal may also be submitted for additional review by the Commissioner's Art Advisory Panel.*

- **Value Over $150,000: Likely to be Reviewed by Art Advisory Panel**

According to Internal Revenue Manual Part 8.18.1.12 (10-01-2012), while not all objects need to be presented to the Art Advisory Panel for review, normally items having a claimed value exceeding $150,000 should routinely be presented to the Art Advisory Panel for review.

- **Value Over $500,000: Attach Appraisal Report to Tax Return Regardless of Type of Property**

The taxpayer **must** attach a qualified appraisal for any donation of **any type** (not just "art") of property for which a deduction of more than $500,000 is being claimed. This is not applicable if the donation is in the form of cash, publicly traded stock, inventory, of intellectual property.

Recall that earlier we discussed the need for the taxpayer to attach a qualified appraisal to his or her return if a claimed deduction for donated **art** exceeded $20,000. If the donated property is other than art (such as donated real property), then, technically, the qualified appraisal need not be attached unless the non-art property being donated has a claimed fair market value exceeding $500,000.

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[258] But many donors desire to know the deduction value **prior** to actually making the gift, so they rely on an appraisal prepared by an independent, qualified appraiser.
[259] This section of the IRM can be viewed at IRS.gov/irm/part4/irm_04-048-002.html.

- **Donor-Created Artistic Property**

  Donor-created artistic property is defined as such property that was created by the personal efforts of the donor who is making a charitable contribution of his or her art to a qualifying organization.

  As a result of the Tax Reform Act of 1969, whenever an artist donates his or her own works of art to a qualifying organization, tax regulations restrict the amount allowable as a deduction to the donor's cost basis in the property. In general, an artist's cost basis in a work of art is merely the cost of the materials, which, in most cases, is a nominal amount. This limitation does not apply to a collector who might have purchased the work from the artist. If held for over one year, collectors are allowed to deduct the full fair market value of the donated work. Over the years, several bills have been introduced (but not yet enacted) to overcome this inequity.

  Note that unlike during the artist's lifetime, in death there is **no** distinction for tax purposes between the amount that can be deducted **by the estates** of deceased artists and of deceased collectors when it comes to making testamentary gifts. In each case, it is the estate that acquires the asset from the decedent before passing it on to the charity. As a result, both estates (whether the creating artist's or the collector's) are entitled to a deduction of the fair market value of the art work being donated and not merely the deceased artist's cost basis in the work of art.

- **Fractional Giving: Donating an Undivided Fractional Interest**

  In certain circumstances, a donor may want to donate a partial interest (referred to as fractional giving or as a fractional donation of an undivided fractional interest) in a work of art in one tax year and the remaining fractions in subsequent tax years until 100% of the donor's interest has eventually been donated.

  The Pension Protection Act of 2006 (PPA) substantially altered the way undivided fractional interests are valued. In brief, once a fractional interest is donated, the fair market value of subsequent fractional contributions is based on either the fair market value of the property at the time of the initial fractional interest contribution, or on the fair market value of the property at the time of the additional fractional interest contribution, **whichever is less.** In other words, the donor cannot deduct any appreciation in the value of the object that occurs after the initial gift has been made. What is more, if the object declines in value after the initial gift, the donor must base his or her deduction for the subsequent fractional interest gift on the artwork's now lower value.

  In addition, the entire gift must be now be completed within either ten years or at the death of the taxpayer, whichever occurs first. This means that the donation of all fractions owned by the donor must be completed and donated within a maximum of ten years.

  This new policy ushered in by the 2006 PPA is a major change to the earlier fractional giving policy which allowed donors to deduct in future years the **appreciated value** of the fractional interest being donated. The earlier policy did not limit donor's deduction to the lesser of 1) the fair market value at the time of the **initial** contribution, or 2) its value at the time of the subsequent fractional contribution. Museums argued that the new policy will discourage donations due to the seriously reduced tax incentives for the would-be

donor of future fractional interests.

- **Taxidermy Property**

  The Pension Protection Act of 2006 also changed the amount allowed for the deduction of donated taxidermy property. IRS Pub 561 defines taxidermy property as,

  > "*...the reproduction or preservation of an animal, in whole or in part, that is prepared, stuffed or mounted to create one or more characteristics of the animal, and contains a part of the body of the dead animal."*

  Deductions of taxidermy properties are now limited to the donor's basis in the property or its fair market value, whichever is less. "Basis" for this purpose includes only the cost of preparing, stuffing and mounting the property. (It does not include cost of time, transportation costs, travel costs or other costs directly or indirectly associated with hunting or killing an animal. In other words, the donor cannot deduct the cost of an African safari!)

- **Appraisal Fees**

  Appraisal fees paid by the donor for determining the fair market value of noncash charitable contributions are not deductible as contributions; however, they can be claimed, subject to the 2%-of-adjusted-gross-income limit, as a miscellaneous itemized deduction on the taxpayer's Schedule A (Form 1040).

- **Do Not Use Sampling Technique**

  Do **not** use the sampling technique for purposes of determining the fair market value of property donated for charitable deduction purposes. The IRS requires that the properties in question be valued property-by-property for each of the items being donated.[260]

IRS Form 8282 Donee Information Return

Appraisers are very familiar with IRS Form 8283 *Noncash Charitable Contributions*, but they may be less familiar with IRS Form 8282 *Donee Information Return.*

For donations in excess of $5,000 the donor is required to obtain a qualified appraisal from a qualified appraiser and report the donated property's value on Form 8283, Section B, the Appraisal Summary. The donee (i.e., the nonprofit organization) must then complete Section B, Part IV of Form 8283 after receiving the contribution. Part IV confirms that the property identified on the Form was, in fact, donated. It also asks whether or not the organization intends to use the contribution for a purpose unrelated to the organization's work. Part IV also affirms that if the organization sells or otherwise disposes of the property within **three** years it will file IRS Form 8282 *Donee Information Return*. (Prior to the Pension Protection Act of 2006, the reporting period was only **two** years.)

If the contribution is subsequently sold, exchanged, re-donated or otherwise disposed of within three years, the donee organization must file Form 8282 with the IRS and forward a copy to the

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[260] See Internal Revenue Code 26 CFR §1.6662-5(f)(1).

original donor. Form 8282 not only discloses whether or not the use of the property was related to the organization's tax-exempt purpose or function, but it also requires the disclosure of the **amount received** by the organization upon disposition.

This action allows the IRS to compare the appraiser's value conclusion as reported and attested to on the taxpayer's IRS Form 8283 with the item's actual sales price as reported on IRS Form 8282. The IRS may be concerned if the appraised value greatly exceeds the eventual sales price should the property be sold within that three-year window.

IRS Art Advisory Panel

In order to be able to review many high-value art valuations, the Treasury Department created the **Art Advisory Panel of the Commissioner of Internal Revenue**. The Panel assists the Art Appraisal Services section of the IRS by reviewing personal property appraisals submitted by taxpayers in support of the fair market value claimed for works of art involved in federal income, estate and gift tax cases.

All taxpayer cases selected by the IRS for audit (regardless of the reason for the selection) **and** which contain artwork with a claimed value of $50,000 or more per item must be referred to Art Appraisal Services for review by the Art Advisory Panel.

The Art Advisory Panel is an ever-changing secretive and rarely-overruled group of 25 experts from the art market (nationally prominent art museum directors, curators and art dealers) who serve without compensation. The Panel meets periodically to review and, if necessary, adjust item valuations that have been reported on income tax, gift tax and estate tax returns.

Since taxpayers would like to pay as little tax as possible, donors of works of art would like high values assigned while executors of estates or taxpayers making gifts would like to see low values assigned. Regardless of whether for donation, or estate or gift tax purposes, an opinion of fair market value must be developed by a qualified appraiser. Educated and trained professional appraisers know that their value opinions must be based on bona fide comparable market data, and that they must make use of appropriate appraisal techniques and methodology. And they know better than to shade their opinions to favor their client! But sometimes appraisers (intentionally or unintentionally) miss the mark—thus the need for the Art Advisory Panel to review the appraisals of high-value items.

With respect to the charitable deductions on income tax returns, the Art Advisory Panel typically adjusts downwards about 60% of the returns reviewed. Conversely, on gift tax and estate tax returns, about 40% of the returns are typically adjusted upwards.

Resources for Noncash Charitable Contribution Appraisals

The following resources govern issues relating to the valuation of noncash charitable contributions for federal income tax deduction purposes. For the most current information, view the below relevant IRS publications and forms online at IRS.gov.

- IRS Pub. 561 *Determining the Value of Donated Property*
- IRS Pub. 526 *Charitable Contributions*
- IRS Pub. 557 *Tax-Exempt Status for Your Organization*

- IRS Pub. 551 *Basis of Assets*
- IRS Pub. 4303 *A Donor's Guide to Vehicle Donations*
- IRS Form 8283 *Noncash Charitable Contributions with Instructions* (see Appendix O)
- IRS Form 8282 *Donee Information Return*
- Revenue Procedure 96-15 *Post Contribution Pre-Filing Procedure* (see Appendix W)
- Treasury Regulation §1.170A-1(c)(2) *Definition of FMV* (for contributions)
- Treasury Regulation §1.170A-17 (a) *Definition of Qualified Appraisal* (see Appendix R)
- Treasury Regulation §1.170A-17 (b) *Definition of Qualified Appraiser* (see Appendix S)
- Treasury Regulation §1.170A-13(c)(4) *Appraisal Summary* (Form 8283, Part B) (see Appendix T)
- Treasury Regulation §1.170A-16 *Substantiation and reporting requirements for noncash charitable contributions* (see Appendix X)
- Treasury Regulation §1.170A-18 *Contributions of Clothing and Household Items* (see Appendix DD)
- IRS *Internal Revenue Manual* §20.1.12 *Penalties Applicable to Incorrect Appraisals*[261]
- IRS *Internal Revenue Manual* §4.48.2 *Valuation Assistance for Cases Involving Works of Art*[262]
- IRS *Internal Revenue Manual* §4.48.3 *Tangible Personal Property Valuation Guides*[263]

Federal Estate Tax Appraisals

The federal estate tax is an excise tax imposed when a decedent leaves assets to someone other than a surviving spouse, a qualified charity, or a federal, state or local government. Federal estate taxes typically might apply to assets left to children, siblings, friends and even parents.

The tax applies to the fair market value of the decedent's estate, but only if the estate is sufficiently large in which case the estate of the decedent is liable for the tax which is levied on the value of the entire taxable estate including all real property, personal property, tangible and intangible property wherever situated.

The value of the decedent's estate is reported on IRS Form 706 *United States Estate Tax Return* if the value of the gross estate at the date of death exceeds the below Estate Tax Exemption Amounts.[264] Form 706 records personal property includable in the decedent's estate on its Schedule F.[265]

Most relatively simple estates (i.e., those having cash, publicly traded securities, small amounts of other easily valued assets, and no special deductions or elections, or jointly held property) do not require the filing of an estate tax return. A filing is required only for estates having an Estate Tax

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[261] See IRS.gov/irm/part20/irm_20-001-012.html *Penalties Applicable to Incorrect Appraisals.*
[262] See IRS.gov/irm/part4/irm_04-048-002.html Valuation Assistance for Cases Involving Works of Art
[263] See IRS.gov/irm/part4/irm_04-048-003.html Tangible Personal Property Valuation Guides of its Internal Revenue Manual
[264] If the value of the estate is less than this amount, the estate may still file Form 706. This is commonly done to establish a new "stepped-up" basis for the property and/or to start the tolling of the three-year statute of limitations for the IRS challenging the estate. Establishing a "stepped-up" basis may reduce the transferee's capital gains tax in the event he or she subsequently sells the property for a gain.
[265] See Appendix P *IRS Form 706 (Schedule F) United States Estate Tax Return.*

Exemption Amount[266] exceeding the below amounts per person (double the amounts shown for a married couple):

- $5,430,000 in 2015
- $5,450,000 in 2016
- $5,490,000 in 2017
- $11,180,000 in 2018
- $11,400,000 in 2019
- $11,580,000 in 2020

Estate Tax Regulation §20.2031-1(b) defines fair market value as:

> "*The price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts. The fair market value of a particular item of property includible in the decedent's gross estate is not to be determined by a forced sale price. Nor is the fair market value of an item of property to be determined by the sale price of the item in a market other than that in which such item is most commonly sold to the public, taking into account the location of the item wherever appropriate.*"[267]

The appraiser's "client" for estate appraisals might by any number of individuals, e.g., an heir, or the estate's personal representative, attorney, or accountant.

IRS Form 706 and Treasury Regulation §20.2031-6[268] govern issues relating to the valuation of household and personal effects for estate tax purposes. Guidelines provided for the federal estate tax appraisal process state that:

- *A room by room itemization of household and personal effects is desirable.*
- *All articles should be named specifically, but items contained in the same room and each of which is valued at $100 or less apiece may be grouped.*
- *If the decedent owned articles with artistic or intrinsic value (e.g., jewelry, furs, silverware, books, statuary, vases, oriental rugs, coin or stamp collections, etc.) and if any one article is valued at more than $3,000, or any collection of similar articles is valued at more than $10,000, then an appraisal by a qualified appraiser is required to be submitted along with the appraiser's qualifications.*

Additional rules required to be followed by §20.2031-6(d) if an appraisal is involved include:

- *Books in sets by standard authors should be listed in separate groups.*
- *For paintings having artistic value, list the size, subject, and artist's name.*

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[266] The Estate Tax Exemption Amount equates to the combined gross assets of the estate plus amounts of prior taxable gifts, also referred to as the Unified Lifetime Gift and Estate Tax Exemption.
[267] See Tax Regulation §20.2031 and other Federal Estate Tax Issues in the Appendix Q.
[268] See Appendix P *IRS Form 706 United States Estate Tax Return* and Appendix Q *Tax Regulation §20.2031 and other Federal Estate Tax Issues.*

- *For oriental rugs, list the size, make, and general condition.*

- *Groups or individual pieces of silverware should be weighed and the weights given in Troy ounces.*

Experience has shown that the following appraisal steps will be beneficial to the heirs:

- Group similar items of depreciable property together such as common everyday dishes, glassware, tools, linen, pots & pans, bake ware, knickknacks, etc., being careful to identify and separate appreciable items so they can be listed and valued individually.

- List appreciable items such as antiques, collectibles, and fine art separately.

- Be sensitive to the needs of the estate to list items individually so that purchases from the estate can be made by the heirs.

Though not specifically required, I would recommend that appraisals done for the intended use of federal estate or gift tax purposes make use of the same criteria for "qualified appraiser" and "qualified appraisal" as noted in the above section entitled *Noncash Charitable Contribution Appraisals.*

Sale in Lieu of Appraisal

For estate tax purposes, if the decedent's property is sold at public auction or through some other manner that is commonly used to dispose of property at **retail to the public**, the resulting prices realized are acceptable as evidence fair market values providing the sale is completed within a reasonable time and assuming that no dramatic change in the market occurs between the effective date of the appraisal and the date of sale. Section 3 of Revenue Procedure 65-19[269] states:

> *Where there is a bona fide sale of tangible personal property as the result of an advertisement in the classified section of a newspaper and the property is of a type often sold by owners by such means, or there is a bona fide sale on an item of personal property at a public auction, the price for which it is sold will be presumed to be the retail sales price of the item at the time of sale. Such retail sales price also will be presumed to be the retail sales price of the item on the applicable valuation date if the sale is made within a reasonable period following the applicable valuation date and there is no substantial change in market conditions or other circumstances affecting the value of similar items between the time of the sale and the applicable valuation date.*

Alternate Valuation Date

Generally, the value of the decedent's property for estate tax purposes is the property's **fair market value** determined on the date of death; however, §20.2032-1(a) of the Internal Revenue Code provides an alternate valuation date (AVD) which is six months after the date of death.

The purpose of this election is to provide tax relief for estates that experience a decline in the value of the estate shortly after death. Making use of the alternate date election is only allowed if doing so would decrease the value of the gross estate and the net estate tax liability. Under the

[269] See Appendix U *Revenue Procedure 65-19 Retail Sales Prices of Items in Decedent's Estate.*

alternate valuation date, once the election is made, all assets and deductions must be valued as of the AVD. However, any assets which are sold or distributed after death and before the AVD is elected, must be valued as of the sale or distribution date.

Resources for Federal Estate Tax Appraisals

The following resources govern issues relating to the valuation of household and personal effects for federal estate tax purposes.[270], [271]

- IRS Pub. 559 *Survivors, Executors, and Administrators*
- IRS Form 706 *United States Estate Tax Return* (see Appendix P)
- IRS Pub. 950 *Introduction to Estate and Gift Taxes*
- IRS Revenue Procedure 66-49 *Appraisal Guidelines & Formats* (see Appendix V)
- IRS Revenue Procedure 65-19 *Retail Sales Prices of Items in Decedent's Estate* (see Appendix U)
- Treasury Regulation Section 20.2031-1(b) *Definition of FMV for Estate Tax Purposes* (see Appendix Q)
- Treasury Regulation Section 20.2031-6 *Valuation of Household and Personal Effects*
- IRS *Internal Revenue Manual* §4.25.12 *Valuation Assistance for Estate and Gift Tax*[272]

Federal Gift Tax Appraisals



Totally separate from the above-mentioned Estate Tax Exemption Amount, though tied to it, is the annual gift tax exclusion amount. For 2018 and 2019 you can give away $15,000 to as many individuals as you'd like. A husband and wife can each make $15,000 gifts.

The person making the gift (donor) must pay the tax, not the person receiving the gift (donee). The gift tax exists for one reason: to prevent citizens from avoiding the federal estate tax by giving away their money or property before they die. For gift tax purposes, the value of a gift is its **fair market value** of the property on the date the gift is made.

Gift tax applies to the transfer by gift of any property (whether real estate, personal property, business assets, money, etc.) for which the gifting party received less than its fair market value in return. In other words, if you aren't fully paid back, it's considered a gift.

The gift tax also applies to the use of or income from property without expecting to receive something of at least equal value in return. Allowing your son and his family to live in your second home rent-free would be an example of such a gift. Also, if you sell something to someone at less than its full fair market value or if you make an interest-free or reduced interest loan, you may be making a gift to the new owner which could be subject to the gift tax.

The general rule is that any gift is a taxable gift. However, there are many exceptions to this rule. Generally, the following gifts are not taxable gifts:

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[270] You can read the most current versions of these IRS publications and forms online at IRS.gov.
[271] See the following section entitled *Federal Gift Tax Appraisals* in this Chapter for a related discussion.
[272] See IRS.gov/irm/part4/irm_04-025-012.html *Valuation Assistance for Estate and Gift Tax.*



- The first $15,000 (as of 2019) you give someone during a calendar year. This is known as the **annual gift tax exclusion** and it is adjusted for inflation. A separate $15,000 annual exclusion applies to each person to whom you make a gift. Therefore, you generally can give up to $15,000 each to any number of people each year and none of the gifts will be taxable. If you are married, both you and your spouse can separately give up to $15,000 to the same person each year without making a taxable gift.

- Tuition or medical expenses you pay for someone (the educational and medical exclusions)

- Gifts to your spouse

- Gifts to a political organization for its use

- Gifts to charities



When a gift tax **does** apply, the donor has the option of paying the gift tax at the applicable rate, or (more commonly) electing to use it as a portion of his or her unified lifetime gift and estate tax exemption (which as of this writing is $11.58M for 2020). Doing so, however, reduces the unified exemption's sheltering capability upon the taxpayer's death.

To prove the fair market value of a gift of personal property for gift tax purposes, hard-to-value items may require a qualified appraisal from a qualified appraiser.

Gift Tax Reporting



The gift tax return (IRS Form 709) is to be filed by the donor if the gift exceeds $15,000 per year per person. While a gift tax return must be filed, as noted above, gift taxes are seldom paid as the taxpayers normally choose to apply the amount of the gift in excess of the $15,000 per person annual exclusion against his or her $11.58M (for 2020) unified lifetime gift and estate tax exemption.

Resources for Federal Gift Tax Appraisals

The following resources govern issues relating to gift taxes.[273], [274]

- IRS Form 709 *United States Gift Tax Return with Instructions*
- IRS Pub. 950 *Introduction to Estate and Gift Taxes*
- IRS *Internal Revenue Manual* §4.25.12 *Valuation Assistance for Estate and Gift Tax*[275]

[273] You can read the most current versions of these IRS publications and forms online at IRS.gov.
[274] See the above section entitled *Federal Estate Tax Appraisals* in this Chapter for a related discussion.
[275] For §4.25.12 *Valuation Assistance for Estate and Gift Tax* of the IRS *Internal Revenue Manual* see IRS.gov/irm/part4/irm_04-025-012.html.

Federal Casualty, Disaster & Theft Loss Tax Deduction Appraisals

Taxpayers are entitled to claim a deduction from their federal income tax if they sustain certain **casualty, disaster** or **theft** losses during the tax year.[276]

Casualty and Disaster Losses

Casualty and disaster losses are those losses to property (including damage and destruction) because of a sudden event. (Mysterious disappearance or furniture scratched during a move do not qualify.) The event must be identifiable, unexpected, and unusual. Events that meet this criterion include:

- Car accidents
- Disaster-related demolition
- Earthquakes
- Fires
- Floods
- Hurricanes
- Shipwrecks
- Storms
- Terrorist attacks
- Tornadoes
- Vandalism
- Volcanic eruptions

Theft Losses

According to the IRS, a theft is the taking and removing of money or property with the intent to deprive the owner of it. The taking of property must be illegal under the law of the state where it occurred and it must have been done with criminal intent. You may have a theft loss if you are the victim of:

- Blackmail
- Burglary
- Embezzlement
- Extortion
- Kidnapping for ransom
- Larceny
- Robbery

Basis of Property

Understanding casualty loss deductions requires an understanding of the term **basis**. The taxpayer's basis in a property is a measure of the taxpayer's investment in the property. For

[276] Casualty, disaster and theft losses are reported on IRS Form 4684 *Casualties and Thefts* and IRS Form 1040 Schedule A.

property that was purchased by the taxpayer the basis is normally the original cost to the taxpayer.

However, while the property is owned, various events might take place that could change the basis of the property. Some improvements such as repairs or restoration will increase the basis. Other events such as insurance payments for earlier casualty losses or damages serve enough to decrease the basis. When the increases and decreases are added to the basis, the result is referred to as the **adjusted basis**.

If the property was purchased by the taxpayer, the taxpayer can normally document his or her basis, i.e., what was paid for the property. For property acquired in some other way such as through inheritance or gift, the taxpayer must figure the basis differently as explained in IRS Publication 551 *Basis of Assets*.

Figuring the Deduction

To determine the amount of a deduction for a casualty, disaster or theft loss, the taxpayer must first figure the **amount of loss**. To determine the amount of loss, the taxpayer must **subtract any insurance settlements received** from the **lesser** of the following two amounts:

- The **decrease in fair market value** of the property as a result of the casualty, disaster or theft (i.e., fair market value of the property before the loss minus the fair market value of the property immediately after the loss. (For a theft, the fair market value immediately after the loss is considered to be **zero.**)), or

- The taxpayer's **adjusted basis** in the property before the casualty or theft.

Note: IRS Pub 547 *Casualties Disasters and Thefts* states:

> *The appraisal to determine the difference between fair market value immediately before a casualty or theft and immediately afterwards should be made by a competent appraiser.*

Examples

- **Theft loss**. Several years ago, you purchased several gold coins for $3,700. The coins were recently stolen. The fair market value of the coins at the time of theft was appraised to be $7,900. Your theft loss before limitations are applied, therefore, is $3,700 (which is required to be the **lesser** of your basis ($3,700) or the decrease in fair market value ($7,900) due to the theft).

- **Disaster loss**. You purchased a 30” flat screen television four years ago for $700. The television was destroyed in a flood. At the time of the flood, the fair market value of your used television was $150. Your disaster loss before limitations are applied, therefore, is $150 (which is required to be the **lesser** of your basis ($700) or the decrease in fair market value ($150) due to the disaster).

- **Casualty loss**. Your house was vandalized and many items of property were damaged. A federal period card table originally costing you $4,500 several years ago had its top split by the vandals. The fair market value before the vandalism was $8,300. The fair market

value after the vandalism taking into consideration the split top which will need extensive restoration is $4,000; therefore, the decrease in the table's fair market value due to the vandalism is $4,300. Your casualty loss before limitations are applied is $4,300 (which is required to be the **lesser** of your basis ($4,500) or the decrease in fair market value ($4,300) due to the casualty).

Deduction Limitations

The amount of the allowed deduction for a casualty, disaster or theft loss is reduced or limited by:

- **Insurance reimbursements**. Reimbursement received from insurance settlements must be subtracted from the casualty/theft deduction. In other words, taxpayers cannot claim a casualty or theft loss for the amount of money they receive as an insurance settlement.

- **$100 Rule**. The first $100 **per event** of a casualty, disaster or theft loss for personal-use property is not deductible.

- **10% Rule**. The total of all casualty and theft losses must be reduced by 10% of the taxpayer's adjusted gross income.

Calculating a Casualty, Disaster or Theft Loss Deduction

Casualty, disaster and theft losses are limited by the $100 threshold per loss event and the overall threshold of 10% of the taxpayer's adjusted gross income (AGI). To phrase this another way, a casualty loss is deductible to the extent that it exceeds $100 per loss event, and to the extent that it exceeds 10% of AGI.

As an example, Bill suffered two losses last year: his uninsured laptop computer was stolen, and later a fire caused damage to his home. Each event is subject to a separate $100 limitation. Let's say his stolen laptop's fair market value was $1,400. After subtracting the $100 limitation, we have a loss of $1,300. In addition, Bill's home was damaged by fire and, as a result, suffered a reduction in fair market value of $9,000. Again, subtracting the $100 per event limitation, we have a loss of $8,900. Remember that Bill's total casualty and theft losses for the year, when added up, must also be reduced by 10% of his adjusted gross income. Let's say Bill's adjusted gross income is $60,000. The calculation of his allowed deduction would go like this:

- Event 1 loss (stolen computer) ($1,400 - $100) = $1,300

- Event 2 loss (damaged house) ($9,000 - $100) = $8,900

    - Total Losses ($1,300 + $8,900) = $10,200

        - 10% Threshold ($60,000 AGI x 10%) = $6,000

            - **Adjusted Loss for the Year ($10,200 - $6,000) = $4,200**

In the above example, Bill's adjusted casualty and theft losses during the tax year amount to $4,200. But from that amount, Bill would have to subtract any insurance settlements he had received associated with the losses. We know the laptop computer was uninsured, but if Bill received, say, a $3,000 fire settlement from his homeowner's policy, he would be allowed to

claim only $1,200 ($4,200 - $3,000) for a casualty loss deduction on his federal income tax return.

Appraiser's Purposes in a Casualty/Disaster/Theft Loss Assignment

Because of the methodology employed in calculating the amount of the deduction to which the taxpayer is entitled, the appraiser may be called upon to provide fair market value at different points in time and/or based on different property conditions:

- If the taxpayer has no records to document the purchase price of the claimed property, the appraiser may be asked to help determine the taxpayer's **basis** in the property, i.e., the probable replacement cost of the property at the time of original purchase,
- The appraiser may be required to determine the **fair market value** of the property immediately **before** the casualty/theft, or
- The appraiser may be required to determine the **fair market value** of the property immediately **after** the casualty/theft.[277]

As you might imagine, **limiting conditions** and **extraordinary assumptions** play a vital role in casualty/disaster/theft loss appraisals. The appraiser often cannot inspect the items that are the subject of the appraisal because they have been lost, destroyed or stolen. It is incumbent upon the appraiser to support the descriptions and value conclusions with as much evidence as can be supplied by the client or derived through investigation of whatever property "remains" may be available. The report must clearly state the extent of the extraordinary assumptions that are being made with regard to the quality, quantity and relevant characteristics of the items being described. Supportive evidence such as original purchase receipts, previous appraisals and/or photographs of the property is very convincing and can be of significant help if available.

Resources for Federal Casualty, Disaster and Theft Loss Appraisals

The following resources govern issues relating to claiming a casualty, disaster or theft loss deduction. You can read the most current versions of these IRS publications and forms online at IRS.gov.

- IRS Pub. 547 *Casualties, Disasters and Thefts (Business and Nonbusiness)*
- IRS Pub. 584 *Nonbusiness Disaster, Casualty, and Theft Loss Workbook*
- IRS Pub. 551 *Basis of Assets*
- IRS Form 4684 *Casualties and Thefts with Instructions*

Federal Bankruptcy Appraisals

Bankruptcy is a legal procedure designed both to protect an individual or business that can't meet its financial obligations and to protect the creditors involved. The process of bankruptcy requires

[277] It is the taxpayer's responsibility and not the appraiser's responsibility to calculate the adjusted loss as done above. But it will serve the appraiser well to understand the process which taxpayers follow in appraisal assignments involving casualty/disaster/theft losses. The appraiser is normally charged with developing opinions of fair market value regarding the affected property.

the debtor to create a report illustrating the "value" of their assets. In order to get a true reading of the value of the individual or business personal property involved, an appraisal is at times, but not always, necessary.

All bankruptcies are governed by Title 11 of the U.S. Code (Bankruptcy Code) and are processed through Bankruptcy Courts— part of the system of federal courts. The Bankruptcy Courts of the 94 federal judicial districts were created by Congress for the sole purpose of hearing bankruptcy cases and making decisions about any disputes between debtors and creditors that might arise.

The debtor begins the process by filing a bankruptcy petition with the Clerk of the Bankruptcy Court in the Federal District where the debtor has lived or has had a principal place of business. The various types of bankruptcy are referred to by their respective Bankruptcy Code chapter numbers. Three types of bankruptcy filings are most commonly used:

Chapter 7 bankruptcy is also called "straight" or "liquidation" bankruptcy. It is the simplest and easiest form of bankruptcy proceeding, and can be used by either individuals or businesses. Under Chapter 7, there is no repayment-of-debt plan. Nonexempt property (for individuals) is simply liquidated. (There is no "exempt property" for businesses filing Chapter 7.)

If filing as an individual, all debtor property becomes the property of the "bankruptcy estate." The bankruptcy Trustee can liquidate all nonexempt property in order to pay the unsecured creditors. Secured creditors are permitted to repossess the property upon which they have valid liens (such as an automobile). To the extent that their nonexempt property does not pay their debts, except for obligatory debts such as taxes and child support, the debts are discharged (i.e., forgiven). There are alternatives to filing a Chapter 7, though. An individual could consider a Chapter 13 debt **repayment** plan instead. If a business, the debtor could also consider a Chapter 11 **reorganization** plan.

- **Chapter 13** is another type of bankruptcy proceeding often referred to as a "wage earner plan" or a "debt repayment plan" and can be used only by individuals, not by businesses. A Chapter 13 proceeding provides for an adjustment of the debts of an individual who has a regular income. Chapter 13 allows a debtor to keep property and pay debts over time, usually over a three to five-year period. Unlike Chapter 7 bankruptcy, a Chapter 13 is not a liquidation of the debtor's property—it is a reorganization of his or her debts. Chapter 13 can be used only if the total amount owed is less than a certain amount for secured and unsecured debts. If in excess of those limits, the individual debtor can, like businesses, consider a Chapter 11 filing.

- **Chapter 11**. A case filed under Chapter 11 of the United States Bankruptcy Code is frequently referred to as a "reorganization" bankruptcy, and is used generally by businesses but, as noted above, can also be used by individual debtors who do not qualify for Chapter 13 because their debts exceed the Chapter 13 limits. For businesses, Chapter 11 bankruptcy is a form of corporate financial reorganization which typically allows companies to continue to function while they follow an approved debt repayment plan. The theory here is that otherwise viable businesses, if allowed to continue to operate, will generate revenue, protect jobs, and be able to pay off creditors over time. A Chapter 11 bankruptcy (reorganization) can be converted to Chapter 7 (liquidation) under certain circumstances.

Property that is Exempted in Chapter 7

While businesses filing for Chapter 7 bankruptcy have no "exempt" property, individual filers do. Exempted property is intended to help individuals get a "fresh start" and includes such property as:

- Motor vehicles, but only up to a certain value
- Reasonable clothing
- Reasonable household furnishings and appliances
- Personal effects, but only up to a certain value
- Some public pensions
- A certain amount of equity in a home
- Tools of a trade or profession, but only up to a certain amount
- Public benefits such as social security, welfare, or disability payments

Property that is not Exempted in Chapter 7

Nonexempt property is property that is not exempt from Chapter 7 attachment. Such property can be liquidated by the Trustee in order to help pay the individual debtor's obligations to unsecured creditors. Examples of nonexempt property in a Chapter 7 bankruptcy are:

- Cash, stocks, bonds and investments over a certain amount
- A second motor vehicle
- A second home
- Family heirlooms over a certain value
- Collections such as paintings, coins, stamps and others
- Expensive equipment for use in a trade or business

Value Type Tied to Intended Use and Intended Users

For bankruptcies, appraisers may be called upon to assist in determining various types of value, with the specific value type used depending, as always, on the **intended use** of the appraisal report and on the **needs of the client** and other intended users. Appraisal reports must be prepared so that they satisfy the needs of all those parties that are identified by the appraiser (in consultation with the client) as being intended users.[278]

Individual Chapter 7 Bankruptcy

For various reasons, debtors, debtor's attorneys and Trustees seldom require the services of an appraiser to determine the value of personal property for individuals filing for Chapter 7. The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 imposes new duties on debtor's counsel. Attorney's now provide guidance and suggest methodologies by which debtors can ascertain the value of their personal property so the debtor is often successful at valuing his or her own property without the need for professional appraisal assistance.

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[278] In bankruptcy, there are always intended users of the appraisal report other than the debtor. A number of third-parties may rely upon the appraiser's report in making their decisions including Trustees, creditors and the bankruptcy court.

The type of value used by debtors when completing required schedules listing their assets is **fair market value** as mandated by §522(a)(2) of the Bankruptcy Code which stipulates the meaning of **value** to wit:

> *"Value" means fair market value as of the date of the filing of the petition or, with respect to property that becomes property of the estate after such date, as of the date such property becomes property of the estate.*

And for a definition of **fair market value** for a Chapter 7 individual bankruptcy filing, one can look to the 1999 U.S. Bankruptcy Court (District of NH) case of Ivan E. Dore which states:

> *The word "value" as used in §522 has a special meaning. §522(a)(2) provides, in pertinent part, that for purposes of §522, "'value' means fair market value as of the date of the filing of the petition…Fair market value is generally defined as the "price which a willing seller under no compulsion to sell and a willing buyer under no compulsion to buy would agree after the property has been exposed to the market for a reasonable amount of time."*

Business Bankruptcies

Should appraisals be needed of business personal property for business bankruptcy purposes, it is normally the machinery and equipment appraiser who is called upon (often in association with a business valuator) to assist with developing opinions of value for tangible as well as intangible business assets.

For a business Chapter 7 (liquidation) bankruptcy, appraisals are often not needed. The case Trustee can simply order the assets to be sold in order to satisfy creditors. The Trustee may negotiate a private sale for all the assets to one buyer, may sell the property piecemeal to a number of different buyers, or may hold a public auction.

For a business Chapter 11 (reorganization) bankruptcy, which type and definition of value to be developed depends on how the appraisal will be used. For instance, a debtor of a going concern under bankruptcy protection looking to obtain a bank loan using business assets as collateral might need to show orderly liquidation value on which a loan amount might be based.

Explaining all the reasons underlying the selection of various value types for business Chapter 11 bankruptcy appraisals is well beyond the scope of this work. Suffice it to say that the appraiser could be called upon to develop opinions of forced liquidation value, orderly liquidation value, going concern value or even a reorganization value. Debt restructuring, obtaining loans using business assets as collateral, seeking creditor support for a reorganizational plan, or showing that a Chapter 11 (reorganization) filing is preferred over a Chapter 7 (liquidation) filing are all intended uses that will direct the type and definition of value to be used.

Communicate with the client to ensure a clear understanding of the intended use of the appraisal and the type and definition of value to be developed.

Fees for Bankruptcy Appraisals

If retained by the debtor, debtor's counsel, or even an informal creditor's committee formed to negotiate with the creditor, the appraiser makes his or her fee arrangement and payment schedule

directly with the client. (It's often advisable to obtain payment in advance prior to delivery of the appraisal report.) However, if retained by the Trustee, fee schedules must be approved by the Bankruptcy Court. In such cases, payment may be modified (if found to be unreasonable, for instance) and/or delayed.

Liquidation Appraisals

Liquidation appraisals for personal property are often required to assess the value of assets that may have to be liquidated for personal reasons. Liquidation appraisals may be called for in circumstances such as:

- Divorce
- Foreclosure
- Sale of seized property
- To pay debts or raise funds
- Bankruptcy
- Default on collateralized loan
- Dispose of unwanted property
- Other personal reasons

Traditionally, liquidation value is considered to be the amount of money that could probably be obtained for property under the condition of a **forced** sale, or the amount that could probably be obtained by sale of the assets of a business upon its dissolution.

In the real world, however, liquidation value more generally represents the amount of money that would be obtained when converting property to cash within a **defined time period** and considering a particular market or method of sale, regardless of the type of property, the reason for liquidation, or whether the sale is considered to be forced or orderly.

Liquidation appraisals call for the use of a type and definition of value which considers the manner in which relevant assignment conditions can vary such as:

- The market may or may not be open and competitive
- The parties may or may not be knowledgeable of the relevant facts
- The seller may not be a willing seller
- There may or may not be compulsion to sell
- The sale will be consummated as of a particular date and, as a consequence, there may or may not be reasonable exposure time to ensure a sale at market value

If the above assignment conditions are reflective of what marketplace participants consider normal and typical (open market, knowledgeable buyer and seller, neither under duress to buy or sell, reasonable exposure time) then developing an opinion of **market value** would be an appropriate purpose of the appraisal assignment. On the other hand, if the conditions are not normal and typical (and they often are not) then market value **cannot** apply. As a typical example, if the seller is in a hurry to liquidate, there will not be reasonable exposure time;

consequently, the appraiser would need to define and make use of "forced liquidation value" instead of "market value."

There are generally two types of liquidation value when considering an individual's personal property—**orderly** and **forced**.

- An **orderly liquidation** value assumes that there is adequate time to prepare for and/or advertise the sale to help ensure the highest proceeds possible upon sale, i.e., there is **reasonable exposure time**.

- A **forced liquidation value**, on the other hand, is one in which there is inadequate time to properly prepare and/or advertise a sale. Forced liquidation value is a "bargain basement," "fire sale" price. It assumes that there is insufficient time to sell the property using a method and marketplace in which the property would probably sell for the highest price. Instead, it is a distress sale in which the typical purchaser for the property is often either a bargain-hunter or a dealer or broker who specializes in purchasing on short notice with the intent on reselling at a later date.

When forming an opinion of liquidation value, the appraiser researches to the degree necessary comparable sales within the appropriate (orderly or forced liquidation) marketplace. The choice of marketplace **examples** to research (i.e., the market level) will hinge on issues surrounding the **assignment conditions** such as:

- Urgency to sell. Because of possible time constraints inherent in liquidation appraisals, the appraiser should address limitations and problems associated with limited exposure time to the marketplace.

- Availability of option to sell within alternative markets. As an example, if the property does not sell at a yard sale for its orderly liquidation value, should I attempt to sell it at an auction or online—or should I instead simply settle for accepting a forced liquidation price in the concluding hours of the yard sale?

- Seller needs cash-in-hand as opposed to accepting checks or credit cards

- Seller offering financing

- Seller offering a warranty and/or a return policy

- Possibility of improving the property to increase value prior to the sale such as polishing the silver or repairing a chair leg

- Possibility of authenticating the property to increase value prior to the sale

- Need for confidentiality in marketing the property

- Availability of delivery

For liquidation appraisals, the appraiser must interview the client to understand the nature of the above issues and how they might impact on the appraiser's definition of value, scope of work, markets to explore and eventual value conclusions. For instance, if there is great urgency to sell

for cash, the most likely marketplace to consider is the wholesale marketplace where dealers make wholesale purchases for cash with the intent of later reselling the property at a profit. Accordingly, the proceeds will likely be substantially less than if adequate time had been allowed for a sale in the retail marketplace to the collector, i.e., the end consumer. If the client is unsure regarding some of the issues, the appraiser should be prepared to provide options to the client in the form of a **multi-market, multi-value appraisal**.

Multiple Value Opinions

Appraisers can also include multiple value opinions (such as orderly liquidation value in addition to forced liquidation value) within a single multi-market, multi-value appraisal report for which there are multiple intended uses (such as for orderly liquidation or for a distress sale). In such a report, each intended use has a different value type and definition, a different scope of work, and, in all likelihood, will have different value conclusions as well. (2020-2021 USPAP FAQ #319)[279]

Multi-Market, Multi-Value Appraisals

A **multi-market, multi-value appraisal report** is one which contains multiple opinions of value, each of which is based on its own defined market, value type and definition, and scope of work.

The multiple markets are defined by their varying applicable market conditions—of which the most common variable is anticipated available marketing time (or lack thereof). Consider an appraiser developing an opinion of value for sales advisory purposes for a client who must decide when to liquidate a property.

- If the client has six months to liquidate, the appraiser may make use of full retail consignment shop prices to determine a **market value** on which to base a suggested client's asking price.

- If the client has only sixty days in which to liquidate, the appraiser may make use of the orderly liquidation local auction market, estate sales or eBay markets to determine an **orderly liquidation value**.

- If the client must liquidate within only three days, the appraiser may make use of **forced liquidation values** such as a "wholesale" or "dealer" price which a dealer would be willing to pay on short notice—and then for only pennies on the dollar.

Another example would be a multi-market sales advisory appraisal for jewelry that examines several possible selling options. The appraiser's multiple value opinions could address several different marketplace scenarios—each dependent on the method of sale or disposition being considered such as:

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[279] The appraiser is also allowed to include both a retrospective value as well as a current value in the same appraisal report. For personal property, both opinions of value would have to be developed in accordance with STANDARD 7 *Personal Property Appraisal, Development*. (2020-2021 USPAP FAQ #157)

- Immediate cash sale to a jeweler or the normally higher trade-in value to a jeweler,
- Consignment sale through a jeweler,
- Auction (local? national? international?), or
- Sale to a private consumer which is now most often accomplished by means of online advertisements or online auctions.

For each option listed above, the appraiser must define a type and definition of value being used, the market in which research is conducted, and the scope of work undertaken to arrive at a credible opinion of value.

Though seldom needed, if the client is unsure of what action to pursue, the **multi-market, multi-value** appraisal could provide the client with the needed guidance. In any case, the ultimate decision on issues such as what price to ask or when to accept a particular offer rests solely with the client and **not** with the appraiser.

Nature of Property Dictates Liquidation Options

The **nature of the property** will also dictate liquidation options. The form, quantity, quality, and condition will affect the possible choice of marketplace (e.g., high-end auction house vs. yard sale, or sale to dealer vs. sale to wholesaler), the potential buyer pool, and, ultimately, the property's value.

- **Form**. Are the items to be liquidated merely components or are they finished products unto themselves?
- **Quantity**. Are there five restaurant dining chairs or a couple hundred?
- **Quality**. Are the works of art paintings by listed artists or by local unknown artists?
- **Condition**. Is the car in mint condition or does it require extensive repairs?

Ideally, for liquidation sales there will be reasonable marketing time, i.e., time to properly prepare for and advertise the sale within the appropriate market, for potential buyers to inspect the property and, when purchased, to arrange for transportation for large items. Though not always possible to achieve, such a scenario will help ensure the most lucrative results possible.[280]

Estates and Trust Management

Estates and trusts, broadly speaking, involve what happens to people's property when they die. These are state law issues (as opposed to being governed by federal law), so the rules vary (sometimes greatly) from state to state.[281]

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[280] For related discussions, see the sections entitled *Exposure Time and Marketing Time* in Chapter 2.
[281] Federal estate taxes were discussed earlier in the chapter entitled *Federal Estate Tax Appraisals.*

Jurisdictions vary as to how they decree personal property is to be inventoried and appraised upon the owner's death for state death tax purposes. Some jurisdictions such as Washington, DC and Baltimore city have their own standing or staff appraisers. Some states require the services of a qualified appraiser. There are two basic types of death taxes that might be levied against the estate by a State: the state inheritance tax and the state estate tax.

With estates and trust management appraisals, the client might require an appraisal not only for death tax purposes but also possibly for determining a step-up in basis, funding a trust, valuing items gifted within three years prior to death, equitable distribution or sales advisory purposes, or for valuing jointly-owned property.

Typically, appraisers are called upon to develop opinions of fair market value for appraisals being conducted for estates and trust management. Determine fair market value following the guidelines described earlier in this chapter in the section entitled *Federal Estate Tax Appraisals* including making use of the federal definition of fair market value. Follow, as well, your state laws regarding probate, estates and trusts. Appraisers should periodically review the estates and trusts portions of the state statutes or codes (found online and in most public libraries) for jurisdictions in which they practice.[282]

State Inheritance Tax

A state inheritance tax is an assessment made by several states on the value of that portion of the decedent's estate that is transferred to beneficiaries through a will or the intestate laws of succession.[283], [284] Beneficiaries are responsible for paying the taxes on assets they themselves inherit.

Beneficiaries are divided into classes according to the closeness or remoteness of their relationship to the decedent, with different exemptions and tax rates applied to each class. Generally, the closer the relationship, the greater the exemption and the lower the tax. Property owned jointly between husband and wife and which passes to a surviving spouse is exempt from inheritance tax all together. In some states, transfers to children and close relatives are also exempt. Some states levy inheritance taxes regardless of the relationship between the beneficiary and the decedent. Some states levy the tax against non-lineal heirs such as cousins or nephews, but not against siblings or lineal heirs such as a child, spouse, parent or grandparent.

State Estate Tax

The state estate tax is a tax on the total value of the money and assets left behind by a decedent before it is distributed to individuals.[285] Whereas heirs are responsible for paying state inheritance taxes, the estate's executor or administrator pays the state estate tax from the estate itself.

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[282] To find the most current state probate laws go online and Google "probate rules [your state]."
[283] As of this writing, six states still collect an inheritance tax. They are: Iowa, Kentucky, Maryland, Nebraska, New Jersey, Pennsylvania.
[284] An inheritance tax is a type of death tax that is calculated based on who receives a deceased person's property: spouse? child? cousin?
[285] The estate tax is based on the overall value of the estate and so the tax will be collected only if the value exceeds the estate tax exemption after applicable deductions are applied.

Until recently, most states did not impose their own estate taxes; instead, they took a share of the federal estate tax paid by large estates (referred to as a "pick-up" tax) that exceed the federal exemption amount (which varies by year). But states no longer get a share of federal estate taxes. To get back some of what they are losing, some states are collecting tax from estates that fall below the threshold for filing a federal estate tax return.[286]

Trust Management



Trust agreements (which come in many forms) spell out the rules one wants followed regarding property being held in trust for one's beneficiaries. A trust is managed by a trustee who is responsible for all aspects of the trust. Trusts are commonly set up for reasons such as reducing estate tax liability, protecting property in the estate and avoiding probate. Trusts also help to ensure that estate assets are used and distributed by the trustee in accordance with the wishes of the trustor. A trust may take effect during the person's life, or might take effect upon the person's death.

Among other things, "property" includes cash, checking accounts, savings accounts, stocks, bonds, mutual funds, life insurance, vehicles, real estate, business interests, etc. "Property" also includes personal property such as clothing, household goods, collectibles, jewelry, antiques and fine art. For personal property, professional appraisers provide estate-related valuations to heirs, trustors and trust management companies for such purposes as inventory listings, estate planning, equitable distribution, insurance, and donation or gift tax**.**

Litigation Appraisals and Related Services

Appraisers are often retained to provide appraisal-related "litigation support services" for civil litigation such as cases involving damage claims, theft (i.e., "conversion"), malpractice, divorce, or fraud. Included are not only the preparation of appraisals reports but also a wide range of pretrial and trial services designed to help prepare lawyers to try a case. These services might include:

- Consulting with attorneys to educate them regarding the appraisal process and appraisal standards
- Pretrial deposition
- Case and document review
- Critiquing and/or preparing an appraisal review of the work of the opposing appraiser
- Preparing exhibits for trial
- **Expert witness** testimony during trial[287]

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[286] As of this writing, twelve states plus the District of Columbia levy an estate tax: Connecticut, District of Columbia, Hawaii, Illinois, Maine, Maryland, Massachusetts, Minnesota, New York, Oregon, Rhode Island, Vermont, Washington.

[287] See the Chapter 12 section entitled *Expert Witness Testimony* as well as Appendix GG *Seven Essential Deposition Tips* for more regarding this topic.

In addition to possibly being retained as an expert witness, the appraiser may be retained as a **consulting expert** to provide technical assistance and specific appraisal related knowledge to the party and/or the attorney. As such, the appraiser may be asked to educate the attorney in understanding appraisal principles, techniques, methodology and standards in general and/or as related to the specific case. The consulting appraiser/expert may also be called upon to discuss significant issues relating to the subject property itself.

As a consultant, the appraiser may also be asked to review and critique the opposing appraiser's qualifications as well as the opposing appraiser's work product including the standards to which it was written. Such a review would be prepared in conformance with USPAP STANDARD 3 *Appraisal Review, Development* and STANDARD 4 *Appraisal Review, Reporting* and would address the completeness, accuracy, adequacy, relevance, and reasonableness of the work under review.

Before being hired, the appraiser/expert must understand the task at hand (i.e., **identify the problem**) and determine if he or she has the requisite expertise to perform the work requested competently. If not, the appraiser should decline the assignment and recommend that others be hired. Reaching beyond one's expertise as an expert witness will jeopardize the client's case as well as the appraiser's reputation.

Get a clear understanding of the schedule for depositions, if any, and trial dates. Discuss fee arrangements including any retainer required, and who is responsible for payment—the client or the attorney.

Through consultation with the client's attorney, the appraiser must determine the scope of work that will be required, the intended use of the appraisal, and, most importantly, ensure a clear understanding as to the type of value needed by the client and the definition of the value that is to be used. The appraiser must also determine what, if any, litigation assistance as an expert witness may be required by the attorney and whether or not the appraiser feels he or she is capable of rendering that assistance.

Well before trial, the appraiser should confer with the client's attorney and review the appraiser's curriculum vitae to ensure that the attorney is aware of the appraiser's education and experience in the field. This will better assist the attorney in offering the appraiser to the court as an expert witness, if need be.

Unlike the client's attorney who acts as an advocate for his or her client, professional appraisers are not advocates. On the contrary, when called upon to offer litigation testimony expert witnesses must at all times be objective, impartial and without bias.[288]

Ad Valorem Property Tax Appraisals

The single largest appraisal discipline that affects more property owners than any other is ad valorem mass appraisal. It is a unique appraisal discipline with a unique intended use. USPAP STANDARD 5 *Mass Appraisal, Development* and STANDARD 6 *Mass Appraisal, Reporting* govern the development of the mass appraiser's opinions and conclusions as well as the communication of the mass appraisal reports to the client.

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[288] For a more detailed discussion on working with an attorney as an expert witness, see the Chapter 12 section entitled *Expert Witness Testimony.*

Ad valorem is a Latin term meaning "according to value." An ad-valorem tax is a tax based on the value of real estate or personal property and is a major source of revenue for state and municipal governments.[289]

Ad valorem appraisals are "mass" appraisals that often make use of public tax assessors (hired by the taxing authority), computer models and schedules, and guidelines and techniques adopted within their respective jurisdictions.

Ad Valorem Real Property Appraisals

- **Intended Use for Ad Valorem Real Property Appraisals**

  Ad valorem mass appraisals are required by the public policy that creates the associated ad valorem tax. The intended use of an ad valorem mass appraisal is principally for the equitable distribution of the property tax burden among property owners within a political jurisdiction. For real property, the property value for a given tax year is multiplied by the tax rate to produce the real property tax bill for each taxpaying entity.

- **Intended Users for Ad Valorem Real Property Appraisals**

  The "client" for an ad valorem mass appraisal of real property is normally the taxing authority or local government. If the mass appraisal is to be used for the distribution of state aid, intended users may include the agencies whose aid formula uses the results of the mass appraisal, or the governments affected by the aid formula. Although laws require individual property owners to be notified of their property value in an ad valorem mass appraisal, the individual property owner is not an intended user of the appraisal, just as the seller of a home is not the intended user of a mortgage appraisal assignment done for the lender and his client (i.e., the would-be home buyer).

Ad Valorem Personal Property Appraisals

Jurisdictions often tax two types of personal property: **business** (commercial) personal property and, in some instances, titled **private** personal property such as automobiles, trucks, motorcycles, trailers and motor homes. For ad valorem taxation, personal property is taxed based on its "taxable value" as of January 1st of each year.

- For **business** personal property, taxable value is based on the property's depreciated acquisition cost[290] and is calculated by making use of valuation schedules that identify depreciation rates for various types of commercial property.

- Similarly, certain **private** personal property such as automobiles, trucks, motorcycles, trailers and motor homes may be subject to an annual ad valorem tax as well. Various schedules and bluebooks are used to determine the taxable value of private personal property.

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[289] Ad valorem taxes are incurred **through ownership of an asset**, in contrast to **transactional** taxes (such as state sales taxes) which are incurred only at the time of transaction.

[290] "Acquisition cost" is defined as all costs required to put an item into service. In addition to the cost of the item, acquisition cost could include shipping and installation costs, taxes, and any other cost related to putting the business personal property into service.

Appraisals for ad valorem tax purposes are not typically done by personal property appraisers (who are the focus of this book). Accordingly, the topic of ad valorem taxation appraisals will not be covered beyond this short introduction. For more information on appraisals for ad valorem taxation purposes, contact your state property tax division.

Supplemental reading:

- USPAP STANDARD 5 *Mass Appraisal, Development*
- USPAP STANDARD 6 *Mass Appraisal, Reporting*
- USPAP Advisory Opinion 32 *Ad Valorem Property Tax Appraisal and Mass Appraisal Assignments*

Collateralized Loan Appraisals

In the world of finance, accurate appraisals for collateral purposes are the foundation of asset-based loans. “Collateral” is defined as property that secures a loan or other debt, so that the collateralized property may be seized by the lender if the borrower fails to make payments on the loan in accordance with the loan agreement. Asset-based loans are (often for a short term) secured by a company’s or an individual's assets.

Borrowers count on accurate appraisals to ensure that their borrowing power is maximized while lenders rely on them to support the value of the credit that they are extending to the borrower. The actual loaned amount will take many issues into consideration including the nature and value of the collateral; whether the collateral is new or used; the borrower's management skills, credit history and financial condition; the condition of the company’s books or records; the lender's perceived risk; expenses related to the loan and to a possible liquidation; market trends and conditions, and other factors.

Businesses

Companies typically make use of their real estate, accounts receivable, inventory, and machinery and equipment to back a loan. Asset-based lenders typically limit their loans to a 50 or 65 loan-to-value ratio. For example, if the proffered collateral is valued at $1M, a lender might lend between $500K and $650K. Financiers often now take into account the installed value (going concern value-in-place) of the assets rather than merely its liquidation value.

For business assets, different value types and definitions may apply. Be sure to have a clear understanding with the client at to which value type and definition you are to employ for collateral loan appraisals— is it to be market value? fair value? orderly liquidation value? forced liquidation value? purchase price if the equipment is new?

Individuals

For individuals, another type of asset on which some asset-lenders and certain large auction houses are offering collateralized loans is art. Some clients are borrowing in order to purchase more art or to buy a home, or because they see investment opportunities in the stock market or in real estate. Obtaining a loan avoids pitfalls of selling a collection in order to raise funds. By securing a loan in lieu of selling, the collector avoids significant taxes and transaction costs that might be associated with the sale of art and antiques. The federal capital gains tax on art, antiques

and collectibles held one year or longer is 28%. Adding state and local taxes, a sale can trigger a total tax bill of 40% or more on the gain. And that's before transaction costs such as sales commissions and other sales-related expenses which can be as high as 20-30% of the value of the assets sold.

Loans using art as collateral can be structured in various ways. Banks offer both **term** loans (which come due at a specific date) as well as **lines of credit** to clients including high net-worth individuals, galleries, trusts, and museums. Banks may loan against a specific work, several works, or a whole collection at generally up to 50% of the market value of the collateral. When acting as a lender, auction houses, on the other hand, primarily offer the consignor advances on the anticipated future sale of the property, although some houses also offer term loans and revolving lines of credit. Typically, auction houses advance between 50% and 60% of the pre-sale auction low estimate, depending on the amount of risk involved. Collectors who borrow against their art can normally retain possession of it.

Appraisals of art for collateralized loan purposes often require an opinion of marketable cash value, i.e., the net amount expected to be realized should the property be liquidated in an orderly fashion. Some lenders will require that their own experts inspect and appraise the collateralized assets. Others require a current appraisal by an independent qualified appraiser.

Corporate Financial Reporting

Personal property appraisers can expect to encounter the need to develop an opinion of “fair value” of corporate personal property for business financial reporting purposes. Appraisers are variously called upon to do so by company management preparing annual reports, by an outside CPA performing a company audit, or by a business valuator tasked with appraising a business.

This need to develop an opinion of fair value will most often occur in assignments involving corporate mergers and acquisitions, or sales and purchases. The personal property appraiser will become involved when business personal property needs to be appraised such as might be the case when company being acquired owns capital assets, supporting furniture and equipment and maybe even an art collection or other types of business personal property the fair value of which is required for financial reporting purposes.[291]

[291] For a discussion of fair value, see the Chapter 2 section entitled *Fair Value.*

Chapter 5: Appraisal Principles Part IV

Value Creators and Relevant Characteristics

Value, at its most basic, translates to a level of desirability which, in turn, is proportional to:

- How rare an item is (the principle of supply and demand in action).[292]
- How beneficial the item will be to a would-be owner (anticipated future benefits).
- Whether the item is sellable or marketable, i.e., if title is transferable. (Not all property is marketable including objects made from parts of endangered species such as parts of an American bald eagle or new items made from elephant ivory.)
- The level of marketplace demand for the property (there is little buyer demand for old, worn mattresses).

Desirability, and thus value, is impacted by forces that are **external** to the property (economic characteristics) as well as by forces that are **internal** to the property itself (physical characteristics). We'll discuss both external as well as internal forces in the below sections.[293]

Supplemental reading:

- USPAP Advisory Opinion 2 *Inspection of Subject Property*

Economic Characteristics (External Forces that Affect Value)

Economic characteristics that impact an item's value include the economy, governmental regulations, natural disasters, the vagaries of public taste, and even public perceptions.

- **Economic factors** such as supply and demand, interest rates, the rate of inflation, investment options, the cost of food, clothing and housing, etc. all affect consumer buying decisions. If items are scarce, their costs increase and priority will be given to satisfying the primary needs of food, clothing and shelter. If purchasing for investment, stocks and bonds may be perceived as yielding greater returns than investing in antiques, fine art or collectibles.
- **Regulations** might affect the legality of owning or trading in certain property including objects made from parts of endangered species of flora or fauna, or in our country's heritage resources such as bones from an American Indian gravesite (trading in either, by the way, is illegal).
- **Natural disasters** and catastrophic events might cause property that was once plentiful to suddenly become hard-to-find. The law of supply and demand dictates that prices will

[292] Today there is a glut of unwanted property including keepsakes and family heirlooms appearing on the market as aging baby boomers downsize into smaller quarters.
[293] For related discussions see the Chapter 3 section entitled *Inspection vs. Non-Inspection*, the Chapter 6 section entitled *Identification*, and the Chapter 10 section entitled *Describing Property*.

increase when demand remains but supply is reduced.

- **Perceptions**. Value is also affected by attitudes and perceptions of participants in the marketplace:

    - When buyers perceive a relative abundance of goods, they will not be willing to pay as much for the goods as if they felt that there is a scarcity at hand.

    - Feelings of nostalgia or sentiment can cause one to pay more for property than would one who was not so affected by those feelings.[294]

    - Manipulated marketplaces can give buyers a false sense of long-term value such as happened with the silver market in the early 1980s and the sports collectibles market in the 1990s.

- **Interaction Effects**. Interaction effects belong to a classification of theoretically possible marketplace anomalies which have no bearing on what happens to demand as price changes. In other words, the law of supply and demand is thrown out the window when considering interaction effects.

  Interaction effects refer only to **propensities** or **preferences** to purchase. Normally, demand theory assumes that preferences are dependent on supply, asking price and the degree to which a product satisfies a particular need or usefulness. But interaction effects instead assume that purchase preferences **can be independent of the law of supply and demand**. Four examples of interaction effects are the Veblen effect, the snob effect, the bandwagon effect and the endowment effect.

    - **Veblen Effect**[295]. In economics, Veblen goods are a theoretical group of commodities for which peoples' preference for buying them increases as a direct function of their price (instead of reacting according to the law of supply and demand). It is claimed that some types of high-status goods, such as diamonds, fine art or luxury cars, are Veblen goods, in that decreasing their prices decreases peoples' preference for buying them because they are no longer perceived as exclusive or high-status products. Conversely, a price increase causes that high status and perception of exclusivity to increase, thereby making the good even more preferable and in demand. The Veblen effect is often thought of in relation to the art market.

    - **Snob Effect**. The snob effect suggests that the demand for certain goods decreases as the number of people who own that particular good increases. In other words, the lower the number of people who own a particular good, the greater the desirability of that good. This effect is attributed to people tending to associate an object of very limited availability with social and financial status, prestige and exclusivity. The fewer the number of people who are able to own a particular object, the more exclusive and prestigious that object is perceived to be. Like the Veblen effect, the snob effect is especially relevant

[294] Maybe so, but sentimentality has no impact on replacement value, market value, or any other type of value other than so-called and highly-subjective "value to owner."
[295] The Veblen effect is named after the economist Thorstein Veblen (1857-1929).

to the art market.

- **Bandwagon Effect**. As more people come to believe in something, others "hop on the bandwagon" regardless of the underlying evidence. The bandwagon effect suggests that the preference for a product increases as the number of people buying that product increases. We see this effect play out in the world of collecting where "trends" or "fads" cause the masses to act regardless of the underlying evidence. Remember Beanie Babies, Cabbage Patch Dolls, and Tickle-Me Elmos?

- **Endowment Effect**. According to the endowment effect theory, people value an object they own more than they value an identical object that they do not own. In a classic study, people were asked to assess the value of coffee cups which had been given to them. Another group in the study was also asked to estimate the value of identical coffee cups, but these coffee cups were not owned by the subjects, rather they belonged to a group of generic coffee cups that could be temporarily used but then had to be returned. The subjects who owned their coffee cups consistently valued them higher than the other subjects who only had temporary use of their coffee cups. The endowment effect often results in people demanding a considerably higher price for an item they own than they would be prepared to pay in order to acquire it.

  The endowment effect has also been used in litigation to demonstrate why a subject property's value to the claimant might greatly exceed its value to the typical marketplace participant. Why? Because of the mere fact that the claimant owned the subject property and the typical marketplace participant did not.

- Other external factors that might impact on the value of an item of personal property include:

  - Certification of authenticity or lack thereof
  - Certification of quality/condition or lack thereof
  - Publicity surrounding the item
  - Marketability
  - Transferability of clear title
  - Availability of financing
  - Availability of a warranty and/or return policy
  - Availability of delivery
  - Obsolescence (functional, economic or technological)
  - Level of importance, such as a prototype of a popular firearm
  - Having value-in-place, e.g., business fixtures and equipment of a going concern



Physical Characteristics (Internal Forces that Affect Value)

Physical characteristics are those internal property characteristics that also affect value.



USPAP defines *Physical Characteristics* as:

PHYSICAL CHARACTERISTICS: attributes of a property that are observable or measurable as a matter of fact, as distinguished from opinions and conclusions, which are the result of some level of analysis or judgment.[296], [297]



Physical characteristics are comprised of **quality characteristics (**e.g., materials (gold vs. silver), condition (excellent vs. poor), or maker (Picasso vs. Maloney)) as well as observable attributes intrinsic to the property itself which contribute to or detract from its desirability and, therefore, to its value. Physical characteristics include:

- Grade or condition including completeness, replacement of original parts with replica parts, alterations
- Author or maker
- Materials from which constructed
- Subject matter
- Age
- Authenticity or lack thereof
- Quality of construction
- Physical depreciation
- Provenance, i.e., documented history of past ownership or origin
- Rarity/regional distribution
- Medium, e.g., oil on canvas vs. watercolor
- Size
- Weight
- Regional significance. Note that while an 18th century chest made by a local cabinetmaker might have a premium in value added because of regional significance, very few 20th century collectibles have values that are driven by regional interest.
- Historical significance/manner of use, such as a pen used to sign an important document, a celebrity athlete's game-worn basketball jersey, or a musket used at the battle of Gettysburg
- Design features affecting aesthetic quality and visual appeal
- Personalization. If personalized with the name, initials, monogram or other information relating to a previous owner, value might be negatively impacted unless the previous owner is famous.

Value of property is directly proportional to the presence (or absence) of desirable relevant characteristics. All things equal, items made of gold are more valuable than similar items made of silver; a painting by a listed artist is more valuable than a painting by an unknown artist; an authentic Babe Ruth signed baseball is more valuable than a forgery.

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[296] See the Chapter 6 section entitled *Identification* for a related discussion.

[297] As noted in USPAP's DEFINITION of *Assignment Results*, physical characteristics of the property are not assignment results. As a result, the appraiser can share physical characteristics with others such as with another appraiser. Doing so helps ensure higher quality appraisals.

Regarding the property characteristic of size: assuming similar quality, a three-carat diamond will be more valuable than a one carat diamond. On the other hand, because of the height of most ceilings in modern homes, some antique furniture greater than 8' in height (such as some tall case clocks) are often less valuable than a comparable clock that is less than 8' in height. So, bigger does not always mean more valuable.

Relevant Property Characteristics Affecting Value

Each property has many different characteristics. Deciding which characteristics are relevant to a specific assignment's intended use is one of the several assignment elements that must be identified as part of the **problem identification**—an initial phase of the "appraisal process" that is critical to the development of credible assignment results since it drives the appraiser's scope of work decision.

USPAP defines *Relevant Characteristics* as:



RELEVANT CHARACTERISTICS: features that may affect a property's value or marketability such as legal, economic, or physical characteristics.

Given a limitless number of personal property types (both depreciable as well as appreciable), which of the many property characteristics associated with each type need be identified? Must they all? The answer is "No."

USPAP requires that the appraiser needs to identify those characteristics needed to establish the identity of the item and those

that are **relevant** to the type of property, to the type and definition of value and to the intended use of the appraisal need be identified. USPAP's Standards Rule 7-2 *Problem Identification* states that the appraiser must:

> *Identify the characteristics of the property* ***that are relevant to the type and definition of value and intended use of the appraisal****, including:* [emphasis added]
>
> > *(i) sufficient characteristics to establish the identity of the item including the method of identification;*
> >
> > *(ii) sufficient characteristics to establish the relative quality of the item (and its component parts, where applicable) within its type;*
> >
> > *(iii) all other physical and economic characteristics with a material effect on value;*
> >
> > > *Comment: Some examples of physical and economic characteristics include condition, style, size, quality, manufacturer, author, materials, origin, age, provenance, alterations, restorations, and obsolescence.* ***The type of property, the type and definition of value, and intended use of the appraisal determine which characteristics have a material effect on value.*** [emphasis added]

Let's review the above-highlighted three issues:

- **Relevant to the type of property**. Various types of property contain characteristics which may or may not be relevant. An inexpensive contemporary bedroom dresser often has drawer sides and other secondary woods made of plywood or particleboard. Identifying that characteristic is of no significance since it is largely immaterial when arriving at an opinion of value of such a property type. On the other hand, when identifying the characteristics of an 18th century highboy, an identification of the secondary woods is significant, as it may lead to a determination of country of origin which most definitely could materially affect value.
- **Relevant to the type and definition of value**. Whether or not a particular property characteristic is relevant to value and must, therefore, be identified will depend on the type and definition of value used. For example, in a **market value** (e.g., orderly liquidation value) appraisal assignment, the relevant characteristics are those that have a significant impact on the property's value and marketability. These features include legal, economic and physical characteristics such as bundle of rights, ownership interest, size (small and easy to transport or large and difficult to move?), level of demand, condition, status of title (is the work of art legally owned or is it stolen property?). On the other hand, if the opinion to be developed is **replacement value**, then the relevant characteristics to be identified might include those necessary in order to identify a suitable replacement property should that become necessary such as identifying maker's marks, construction material, dimensions, age, etc.

- **Relevant to the intended use of the appraisal**. Property characteristics relevant to one intended use may be irrelevant to another. As a result, while it may be necessary to identify a particular characteristic for one intended use, it would be unnecessary to do so for a different intended use. As an example, for the intended use of federal estate tax, Treasury regulations require that sterling silver be weighed in troy ounces. But for the intended use of equitable distribution or state inheritance tax, there is no such requirement nor is it necessary; consequently, time and expense can be saved by not weighing sterling silver for these latter intended uses. But then again, for the intended use of acquiring insurance, it may be necessary to record the weight of the sterling silver to help ensure recovery or proper indemnification should a loss occur.

There is a direct relationship between value and the above-mentioned **type and definition of value**, **intended use**, and **relevant characteristics**. This interrelationship, in turn, directly impacts the appraiser's scope of work decision, i.e., the type and amount of work that must be done in order for the appraiser to develop credible assignment results.

In short, all three factors (the type of property, the type and definition of value, and the intended use of the report) work conjointly to establish which property characteristics are relevant and which are not. All three of these considerations are essential components of the appraiser's eventual, all-important scope of work decision.

Depreciation: Detractors of Value

Depreciation is a term used in appraising, accounting, economics and finance which references the fact that assets with finite lives lose value over time.

Do not confuse the term "depreciation" with "loss-of-value" as the two terms are used in this book. Depreciation refers to factors which detract from fair market value due to the property's normal use or operation (such as physical deterioration and all forms of obsolescence). Loss-of-value, on the other hand, refers to the loss of **fair market value** due to casualty or transit-related damage and subsequent repair.[298]

Depreciation has various meanings depending on the context within which it is being used:

- In regards to **improvements to land** (such as the addition of a home or a school building) depreciation is defined as the degree of deterioration and obsolescence of only the improvements that were made to the land (land does not depreciate).

- In **accounting**, depreciation is tied to income tax laws and is a way to approximate the "charging to expenses" of the cost of business assets that are used for longer than one accounting period. The result, **book value**, is the original cost of the property (less any expected salvage value) minus the accumulated depreciation. With the passing of each accounting period, book value decreases until a point in time that the property reaches zero book value at which point the property could be continued in service, or it could be retired, replaced or discarded.

  Straight-line depreciation is normally used for corporate accounting purposes to ascertain book value of tangible business assets. Using this method, the amount depreciated each year is the asset's original purchase price (minus expected salvage value) divided by its useful life. For example, assuming a $200 salvage value, an asset originally costing the business $5,200 and that has a useful life of eight years would depreciate at the rate of $625 per year (($5,200-$200)/8). After eight years, its book value would be zero even though it might remain in operation and continue to have value-in-place.

- For **personal property**, depreciation is defined as a property's loss in value from its new state for any reason including physical deterioration and/or obsolescence. This diminution in value could be caused by factors attributable to deficiencies in the property itself such as rust, decay, breakage, missing parts, wear and tear, inherent vice, soiling, or functional or technological obsolescence (i.e., being "outdated"). It could also be caused by economic obsolescence which encompasses factors external to the property such as a change in fads/vogue/style, or new and more restrictive governmental regulations.

Two Types of Depreciation for Personal Property

Let's focus on depreciation as it relates to personal property. Depreciation for personal property can be categorized as either **Age-life** depreciation or **Accrued** depreciation.

As we will see, by applying age-life depreciation formulas, one can calculate the replacement cost new less depreciation[299] of depreciable property for litigation purposes, or for damage or casualty loss claims purposes based on the **remaining useful life** of the subject property. The remaining useful life might be measured in terms of time or, as in the case of vehicles and machinery, in terms of mileage or hours of operation.

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[298] See the Chapter 2 section entitled *Loss-of-Value* for a related discussion.
[299] The insurance industry refers to replacement cost new less depreciation as "actual cash value."

Note, though, that when applying **only** age-life depreciation, it is assumed that the subject property was whole, in good condition, in working order and was not suffering from obsolescence as of the effective date of the appraisal assignment. If the property was **not** in good condition or **was** suffering from obsolescence, then the **age-life depreciation** methodology should be supplemented with the **accrued** depreciation methodology of determining depreciation in order to more accurately reflect total accumulated diminution in value due to all forms of depreciation, i.e., age-life depreciation plus accrued depreciation.

Accrued depreciation is useful in substantiating a reduction to value due to **deterioration** (wear and tear, missing parts, inherent vice, breakage, etc.) **and to all forms of obsolescence**. As you will see, accrued depreciation does not make use of formulas and calculations as does age-life depreciation.

Since the value of some types of personal property can be diminished because of either **age-life** depreciation or by **accrued** depreciation, understanding and being able to explain how depreciation affects property values is essential in order for the appraiser to be in a position to support his or her argument for a reduction of value when depreciation does, in fact, apply.[300]

Age-Life Depreciation

To the owner of a **new** item, the item's worth is, not unexpectedly, the cost to replace it with a **new** item. But over time the item becomes **used**, and its worth then becomes equal to the cost of a new replacement item less an amount of worth that can be attributed to the expired portion of its useful life. This expired portion of the property's useful life is referred to as its **age-life depreciation**.

Age-life depreciation is not impacted by obsolescence—only by the property's age.[301] In other words, the only factors normally impacting age-life depreciation are age-related. For example, the age-life depreciation of a set of tires can be gauged by the remaining depth of the tire tread. Relating to vehicles or machinery, the age-life depreciation can be gauged not only by the age of the vehicle/machinery but also by its mileage and/or hours of operation.

All items of **depreciable** property can be assigned a useful life, over which time period the benefits of ownership are "used up" to the point that the property is normally retired and no longer used (or may even be discarded), and (if so desired by the owner) a new replacement property is purchased to take its place.[302] Optionally, as is often the case with personal property, the item can continue in service despite its use having exceeded its normal expected useful life.

For replacement or insurance purposes, the worth of **used** depreciable property, then, can be estimated by subtracting the amount of **age-life depreciation** from the current cost to replace the property with a new property that is either identical or similar in utility to the subject used property.

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[300] Age-life depreciation does not apply to antiques. Depreciation applies to an antique only in terms of condition—the nearer to "showroom condition," the higher its market value.
[301] Age-life depreciation assumes that the condition of the property is **good**. If not good, the appraiser considers supplementing the analysis of deprecation with accrued depreciation which we discuss next.
[302] For instance, the age-life depreciation of a clothes washing machine can be calculated based on its current age and on the common assumption that clothes washing machines have a useful life of ten years.

In the insurance industry, the resultant figure is commonly referred to as **actual cash value** (ACV). Mathematically:

> **ACV = (replacement cost (new)) – (age-life depreciation)**.
>
> Said another way, for insurance purposes, ACV equates to **replacement cost (new) less depreciation**.

The concept of useful life (i.e., life-expectancy) is used by insurance and moving companies and by the military to determine actual cash value for claims settlement purposes.[303] Useful life is also used in litigation cases in which the measure of damages is defined as replacement cost (new) less depreciation.

Below are some commonly accepted personal property examples of useful life:

- 10 years for an electric clothes washer or dryer
- 2 years for a young girl's dress
- 4 years for a personal computer
- 10 years for upholstered furniture

Straight-Line Depreciation vs. Accelerated Depreciation

Knowing the useful life of a property allows schedules of straight-line rates of depreciation to be developed. Straight-line depreciation is often used when depreciating business personal property for **accounting** and **book value** purposes. In the above example, with a useful life of only four years, the computer depreciates at the rate of 25% per year for four years. Using a similar approach, upholstered furniture which has a useful life of ten years, depreciates at a rate of 10% per year for a ten-year period. For accounting and book value purposes, such properties would eventually be depreciated 100% such that their accounting or book value at the end of their useful life would be zero.

As noted, straight-line depreciation for personal property (the simplest and most-often-used type of depreciation) allocates equal depreciation amounts to each period over the entire anticipated life expectancy of the asset. The straight-line depreciation amount is calculated by dividing the original cost (new) of the property by its life expectancy.[304]

An argument against making use of the straight-line technique for personal property is that in real life, there are many factors impacting worth that are not linear over time, but rather reduce the usefulness or productivity of an asset by larger amounts in the earlier years of a property's expected life.

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[303] Due to DOD policy changes in 2007 which implemented full replacement value protection for DOD employee moves, depreciated value is not used in association with military moving claims to the extent it was prior to 2007.

[304] An example of a publicly-available straight-line table of depreciation rates for household goods can be found at claimspages.com.

Straight-line depreciation is most useful for business property accounting purposes or for depreciating real property, but rather than applying straight-line depreciation to **depreciable personal property** for appraisal purposes, you may wish to make use, instead, of rates of depreciation which account for the above-mentioned realities of life, i.e., personal property is typically more useful when first put into service, so it commonly actually depreciates more the first year in use than in subsequent years.

The only publicly-available depreciation guide that takes into consideration first year depreciation, subsequent year depreciation, maximum depreciation, and flat rate depreciation is the *Joint Military/Industry Table of Weights and Depreciation Guide (JMITWDG)*.[305] By the way, the *JMITWDG* also assigns flat rates of depreciation to certain personal property types regardless of their age (e.g., dried flower arrangements are depreciated at a flat 25% and a wedding gown at 50% regardless of their ages) assuming, of course, that the items are still in good condition.

In addition, the *JMITWDG* recognizes that as long as it remains complete, in good condition, in style, etc., personal property commonly retains a certain level of owner value regardless of its age. In other words, so long as it is in good condition, its owner value is never depreciated down to zero regardless of how many years the item has been in use. For instance, regardless of its age, an item's amount of depreciation might max out at 75%. However, depreciable personal properties which are not in good condition, are out of style, are missing parts, etc. could very well be assigned a 100% depreciation—effectively making the property worthless.

This system of depreciation that takes into consideration the realities of life is akin to **accelerated depreciation** as used in business financial accounting. With accelerated depreciation, the amount of annual depreciation taken on certain business assets is higher during the earlier years of an asset's life. Accelerated depreciation reflects the asset's greater utility to the company during its earlier years and more accurately represents how much of the asset's usefulness is being used up each year of its expected life.

Age-Life Depreciation Not Applicable to Appreciable Property

Age-life depreciation applies only to **depreciable property** and not to **appreciable** property. Rather than loosing value over time, appreciating property increases in value because of relevant characteristics such as antiquity or provenance or fads which are non-existent in and cannot be duplicated in a new property; consequently, appreciable items are normally not capable of being suitably replaced with a **new** property.

For instance, while new Tiffany lamp reproductions exist, it is inappropriate to replace an authentic c. 1910 Tiffany table lamp with a new reproduction recently made in Mexico. The original vintage lamp has value-relevant qualities that appeal to collectors and that simply cannot be replicated in a reproduction lamp.

On a related note, replacement of a used depreciable property with yet another used item is also inappropriate. Few, if any, insureds would consider or accept having a 4-year-old depreciable

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[305] The *JMITWDG* (discussed earlier in Chapter 2) had been published by the American Moving & Storage Association (AMSA), but in 2011 AMSA ceased publication of the *JMITWDG* which, as of this writing may still be being considered for revision by the military services and the moving industry. A copy of the current edition of the *JMITWDG* can be obtained at davidmaloney.com/store/.

sofa which was lost in a fire replaced with another sofa of similar age and condition! Instead, it is expected that the used depreciable sofa will be replaced with a new sofa (assuming the insured had replacement cost coverage). If, on the other hand, the insured had only actual cash value coverage, rather than receiving either a new or used sofa, the insured will be paid an amount of money equal to the actual cash value of the item, which is typically the **replacement cost new** of the sofa **minus** a calculated amount reflecting its **age-life depreciation**.

Most personal property age-life depreciation calculations make use of industry standard rates of depreciation which assume that the items had been subjected to **average** care and usage. The age-life depreciation rates may be adjusted upward or downward when it can be proven that the items received greater or lesser than average care or use. Examples might include items which have been abused, soiled, have missing parts or have not been properly cared for or maintained.

As an example of the application of age-life depreciation to determine actual cash value, consider a sofa which cost its owner $3,000 when it was purchased new 4 years ago. According to industry standard depreciation guides, upholstered furniture has a life expectancy of 10 years. The sofa, therefore, has an estimated remaining life of 6 years. Assume that on the date of valuation (i.e., the date of loss), a new sofa of comparable quality would have cost $4,000. Using straight-line age-life depreciation, the current age-life depreciation is **$1,600** ([4/10] x $4,000). Therefore, replacement cost (new) less depreciation (i.e., actual cash value) is **$2,400** ($4,000 - $1,600).

Note that while of interest to the appraiser, **the calculation of actual cash value making use of replacement costs and age-life depreciation schedules is normally relegated to the insurance or claims adjuster.** Frequently, however, the appraiser is asked to document the replacement cost (new) of the subject property upon which the claims adjuster can then base the actual cash value calculations. For litigation purposes involving insurance indemnification, the appraiser may be required to develop an opinion of actual cash value—often for an entire household full of depreciable property. When so required, you might want to make use of the *Joint Military/Industry Table of Weights and Depreciation Guide* (JMITWDG) in combination with **Maloney's ACV Calculators (**Excel spreadsheets).[306]

Accrued Depreciation

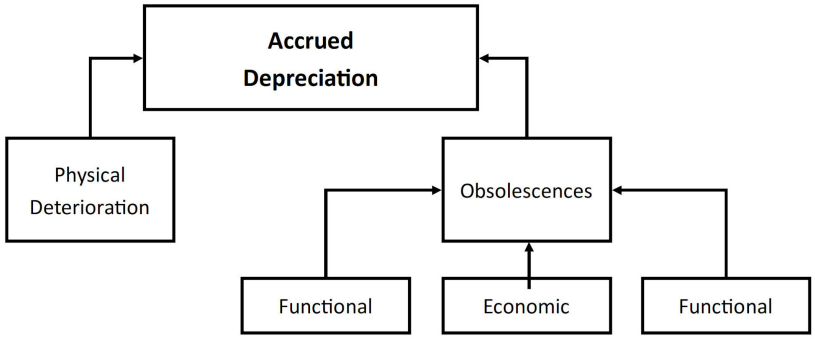
While the amount of **age-life** depreciation is calculated, **accrued** depreciation is **perceived**. Note that the two types of depreciation are not mutually exclusive. A calculated age-life depreciation can be supplemented by the addition of a perceived accrued depreciation. A combination of the two establishes "all forms of depreciation" which, when subtracted from replacement cost (new), results in replacement cost (new) less depreciation.

Unlike age-life depreciation which is calculated based on the property's replacement cost (new) and its remaining useful life, accrued depreciation is caused either by **physical deterioration** (wear and tear, missing parts, etc.) or by **obsolescence** (functional, technological, or economic obsolescence). Both of these factors can cause the property to lose the ability to serve its intended purpose and, consequently, its value to the owner. Once severe enough, accrued depreciation leads to the eventual retirement of the property. Retirement of the property is often accompanied by replacement with a new item that is better able to achieve the desired results.

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[306] Copies of **Maloney's ACV Calculators** (one .zip file containing three calculators: Basic, Premium and Premium Plus) are available at davidmaloney.com/store/. A copy of the *JMITWDG* can be downloaded in PDF format from the same website.

The following flow chart illustrates how accrued depreciation is proportional to both physical deterioration as well as to the three types of obsolescence which we will discuss below.



Accrued Depreciation = Physical Deterioration + All forms of obsolescence

In brief, what does the above flow chart and formula tell you? An item might be in perfect condition with no physical deterioration, yet because of obsolescence, its accrued depreciation could be significant and its value, therefore, minimal. On the other hand, an item can be brand-new (i.e., it has no age-life depreciation) so it is without obsolescence, but because of some form(s) of physical deterioration such as damage it could suffer from accrued depreciation to the extent of also being valueless.

Physical Deterioration

The term **physical deterioration** encompasses any change from like-new condition that has occurred over the life of the property. Physical deterioration can be brought about by any number of factors including:

- Normal wear and tear caused by usage
- Actions of the elements such as sun, heat, rain, cold, humidity
- Soiling such as might be the case with bedding materials, clothing, plush toys
- Breakage or other damage
- Neglect and lack of maintenance
- Repairs to the property
- Alterations or modifications to the item
- Incompleteness or missing parts

Physical deterioration is either **curable** (correctable) or **non-curable** (impractical, uneconomical, or impossible to correct). If properly accomplished, correcting the physical deterioration, of course, reduces the accrued depreciation accordingly. If the subject property has no obsolescence and only suffers from **curable** physical deterioration, then correcting the deterioration eliminates accrued depreciation entirely. As an example, if a current model computer has a damaged hard

drive, it suffers from accrued depreciation because of its physical deterioration, but it does not suffer from any obsolescence because it is the latest model available. Unfortunately, because of this accrued depreciation (which is being caused by the damaged hard drive), its value is minimal; however, replacing the hard drive removes all traces of physical deterioration and, therefore, all traces of accrued depreciation. As a result of the repair, its value is fully restored.

Obsolescence

Obsolescence is a **process** of gradually passing out of usefulness. There are three types of obsolescence—**functional**, **technological** and **economic**. The first two have to do with intrinsic characteristics of the property itself, while the latter has to do with external factors that impact negatively on the property's desirability.[307]

Functional obsolescence (**intrinsic** to the property) is the passing out of usefulness due to the inability of the item to produce the desired results because of age, inadequacies, unattractive style, poor or inefficient design, deficiencies such as outdated features, lack of modern features, etc. and due to the availability of a new item of similar type to take its place.

- Older cars, large and small kitchen and household appliances, electronics, sporting equipment, and large and small power tools are examples of items which often suffer from functional obsolescence as newer and more desirable models come to the market.

- A consumer buys the latest smart phone which has the most storage, largest screen and most advanced features of any smart phone available. Two months later, a manufacturer introduces a new smart phone model that has twice the storage capacity, a larger screen, and makes coffee in the morning. The new smart phone renders all earlier smart phones functionally obsolete.

- Functional obsolescence is one reason why a home might drop in value. For example, the market value of a home will be reduced if the home does not have enough electrical power to satisfy the needs of a 21st century family, or if it does not contain an updated kitchen and bathroom.

Technological obsolescence (**intrinsic** to the property) is the passing out of usefulness due to the ability to meet the desired results by replacing the property with a new replacement that makes use of a new technology, or that is produced using more modern manufacturing materials and techniques. A property suffers from technical obsolescence when it is no longer technically superior to other similar products.

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[307] You might have heard of a fourth type of obsolescence—planned obsolescence which is the incorporation into a product of features that will almost certainly cause the product to go out of favor or to fail in a short time, thereby inducing the consumer to re-purchase the item or a new model/style of the product. Placing sweeping tail fins on automobiles in the 1950s was an example of planned obsolescence. Other examples: clothing styles change constantly; nylon stockings are sure to run; cell phones are superseded with better models after only a couple years; countertop kitchen appliances are no longer repairable. Regardless, planned obsolescence is not a type of obsolescence commonly considered by the appraiser.

- The automobile (using an internal combustion engine) has caused the horse-and-buggy to suffer from technological obsolescence.

- Electronic calculators which use circuit boards have caused hand-crank type, mechanical adding machines to become obsolete.

- New computers using more sophisticated technologies often cause older computers to become technologically obsolete, often within a surprisingly short period of time.

- VHS tapes and CDs become obsolete as they give way to online streaming video and bulk storage sites, large-capacity thumb drives and other cloud-based services and portable digital media devices.

Economic obsolescence (**external** to the property) is the passing out of usefulness due to economic factors that are external to the property such as a decrease in demand caused by fads or changes in style, vogue, or fashion. Economic obsolescence could also be brought about by laws restricting the trafficking, availability, legality of ownership, or use of the property.[308]

- Items made from parts of endangered species of animals such as from elephant ivory or from American bald eagle feathers suffer from economic obsolescence.

- Clothing made from animal furs is less popular today than it was in the 1950s.

- An expensive private home may drop in value when an industrial plant is built nearby.

- Clothing and accessories, children's toys, exercise equipment, and musical preferences often quickly become dated because of what is or is not in vogue.

- Goods that are the subject of recalls quickly suffer from economic obsolescence.

- Of great significance today is the economic obsolescence caused by the glut of unwanted property including keepsakes and family heirlooms appearing on the market as aging baby boomers downsize into smaller quarters. At the same time, their heirs (nowadays opting for a more minimalistic lifestyle, already living in smaller quarters and having stuff of their own) are opting to forego becoming the repository for all of Mom and Dad's stuff which, consequently, ends up on the market.

Property Still Useful Despite Obsolescence?

Just because an item suffers from obsolescence does not mean that it is useless and without value (assuming, or course, that it has remained in good condition).

- A 1930s refrigerator may be functionally obsolete because of the availability of a modern GE side-by-side refrigerator/freezer replacement, but it might still be in working order and capable of continuing to provide the desired result of keeping food cold.

[308] Economic obsolescence is also known as environmental obsolescence.

- The mechanical adding machine has been replaced by its electronic counterpart in most offices, but some are still being used nonetheless.

- While fur coats might have fallen from favor because of the activities of animal rights activists, many continue to be worn. Despite their continued utility, their value has been reduced, though, because of economic obsolescence.

Note that an item that appears to one person to suffer from obsolescence might not appear to be so affected when observed by another. The horse-and-buggy might be considered obsolete by many people, but it continues to be relied upon for transportation by members of certain religious groups.

Effect of Highest and Best Use on Accrued Depreciation

Before determining if accrued depreciation applies to an item, the **utility** or **function** of that item must first be identified. What is the item's highest and best use, i.e., to what use will the property be put, and in what marketplace would the item realize the highest price?

A wooden butter churn is functionally, technologically, and economically obsolete if considered by a non-collector only as a utilitarian device that is intended to turn cream into butter. On the other hand, a **collector** might consider it as a country collectible useful as a decorative item, in which case "obsolescence" would not apply when analyzing accrued depreciation. In either case, however, if the churn was worn or damaged, "physical deterioration" would be a factor to consider as contributing to accrued depreciation. The same can be said for wooden ironing boards, crank telephones, oak ice boxes, and kerosene lamps. As utilitarian items meant to function as originally intended (i.e., help smooth clothing, make voice calls, keep food cool, provide illumination, respectively) these items have little or no value. But when their highest and best alternative use is considered to be as collectibles or decorative items, these items can be very valuable. In the first scenario, they are depreciable property and economically obsolete, but in the second scenario they are appreciable property and the issue of obsolescence is irrelevant.

USPAP notes that in the case of personal property, "highest and best use" (a term primarily associated with real property appraising) may (and normally does) equate to choosing the appropriate market or market level. Specifically, USPAP's Standards Rule 7-3(a) states:

> *In developing a personal property appraisal, when necessary for credible assignment results, an appraiser must:*
>
> > *(a) analyze the property's current use and alternative uses as relevant to the type and definition of value and intended use of the appraisal;*
> >
> > > *Comment: In the context of personal property, value can be a function of the choice of the appropriate market or, in some cases, market level for the type of item, the type and definition of value, and the intended use of the appraisal.*

In other words, when ascertaining the value of personal property (and **if necessary** to do in order to develop credible assignment results) the appraiser must consider and research various alternative markets. For instance, a vintage Stanley #1 wood plane with original box could sell at

a yard sale, but it would probably achieve a higher price at a local auction gallery, and an even higher price if sold via an online auction that specializes in vintage tools.[309]

Depreciation Supports Opinion of Diminished Value

When determining the value of depreciable property, considerations must be given to the degree to which the property is affected by **accrued depreciation** (including both physical deterioration as well as obsolescence). The ability to document the negative impact caused by accrued depreciation will assist in substantiating a low value for an item of depreciable property just as the documentation of positive relevant characteristics will help substantiate a high value for an item of appreciable property.

Note that some assignments involving the determination of actual cash value often include several different types of depreciable property, some of which will lend themselves to the application of accrued depreciation while other property types will lend themselves to the application of age-life depreciation. Some might be affected by both. Make use of the type of depreciation appropriate for each depreciable property type.

- Examples of depreciable items for which **accrued** depreciation would be applicable include items for which parts have been lost, which have suffered wear and tear beyond that considered to be average, items that are out of style and outdated, or those items which are soiled or otherwise poorly maintained. Such items might very well have zero actual cash value as a direct result of these deficiencies.

- Examples of items for which **age-life** depreciation would be applicable include those properties which have only average wear (if any wear at all), are complete, which have been properly maintained, and which can be suitably replaced with a brand-new item. Such items would have an actual cash value that would be proportional to their age, remaining useful life and current replacement cost (new). If old enough, remaining useful life could be nil; accordingly, their actual cash value would be minimal.

- Examples of property which might be affected by **both** age-life as well as accrued depreciation would include property which was not only in poor condition and suffering from obsolescence, but was also aged (or, for motor vehicles or machinery, that had excessive mileage or hours of operation). Such items would have a greatly reduced actual cash value due not only to their age and/or level of use but also because of their poor condition and level of obsolescence.

Value Ranking

Value ranking is a technique for developing an opinion of value of the subject property by comparing it to comparable properties of known value. Value ranking is most effective when used in association with a recognized grading scale such as those used by coin grading services or by classic car collectors.

While most “internal” or “intrinsic” property characteristics such as aesthetic appeal are rather subjective, others are more objective and are based on well-recognized grading scales or methods

[309] See the Chapter 6 section entitled *Principle of Highest and Best Use* for a further discussion of this topic and how the concept of “highest and best use” applies to personal property.

of ranking. The higher an item is on a given scale, the higher is its value. Some examples of grading scales include:

- Jewelry made of gold is ranked on a quality scale, e.g., 14k vs. 18k.
- Diamonds are ranked according to color (from D down to Z), carat weight, clarity (Fl down to I3), and cut.
- Special interest automobiles are ranked from a high of 1 to a low of 6 based on condition and originality.
- Sports cards, coins, and stamps are also ranked according to condition.

Value ranking is the process of ordering comparable properties of known value according to their relevant characteristics. Those comparable properties with the higher relevant characteristics (i.e., the "best" items) are placed at the top of the order while those with few such characteristics (i.e., the "poorest" examples) are placed towards the bottom.

Once the comparable properties of known value are so ordered, the **subject** property (of unknown value) is, metaphorically speaking, inserted into the order in a location that is commensurate with **its** value characteristics as compared to the value characteristics of the **comparable** properties. The value of the subject property, then, falls somewhere between the values of the comparable properties by which it is flanked.

Using the technique of value ranking is necessary when determining a representative value by making use of comparable properties that have relevant characteristics **that vary** from the characteristics of the subject property. But when making use of a set of price points for comparable properties having relevant characteristics that are **identical or nearly identical** to the subject property, you do not need to make use of value ranking. Instead, simply make use of the **average selling price** of the comparable items in order to arrive at a representative value for the subject property.

Types of Appraisals and their Related Dates

Over time, the value of property varies due to many factors such as an increase or decrease in supply and demand. The economic factors of inflation and recession also have an effect on value. Property values may steadily increase over time as they do for appreciable property, or property values might steadily decrease as they do for depreciable property. Value may fluctuate up and down, or value may remain steady. In a similar fashion, the cost to replace a property by purchase or reproduction may also vary from time to time. The manufacturer's or vendor's overhead or the cost of materials may fluctuate. Vendors may raise prices to increase their profits, or lower prices to encourage sales.

For these reasons, it is critical that an appraiser's value conclusions be effective as of a specific point in time—referred to as the **effective date** of the appraisal. Without such dating, the appraisal is meaningless and could be misleading.

There are actually **three** important dates that apply to all appraisal assignments. It is the relationship between two of these three dates that determines the type of appraisal, i.e., whether the appraisal is considered to be a:

- **Current appraisal**
- **Retrospective appraisal**, or a
- **Prospective appraisal**

We will discuss these three different types of appraisals in the below sections. But first, let's discuss the three important dates that apply to all assignments.[310]

The three dates that are of interest are:

- ## Date of Inspection

  The **date of inspection** is normally the date(s) on which the appraiser physically inspected the property. If the inspection spanned more than one date, all dates should be included when reporting the date of inspection.

  If the property was not physically inspected by the appraiser, the date of inspection is the date(s) on which the signing appraiser identified the property and its relevant characteristics such as would be done by reviewing descriptive information including photographs, digital images or other client-provided information such as verbal or written descriptions .[311] (Instances in which the signing appraiser would be unable to inspect the property, so would necessarily be required to obtain such information from the client might include items that have been stolen or lost in a fire.)

- ## Effective Date of the Appraisal

  The **effective date of the appraisal** is dictated by the intended user and the intended use of the appraisal report. USPAP defined *Effective Date* as:

  EFFECTIVE DATE: the date to which an appraiser's analyses, opinions, and conclusions apply; also referred to as date of value.

  Most commonly, the effective date is a specific day, month and year; however, in some circumstances it is acceptable for the effective date to include only the month and year, for example in the case of a prospective appraisal assignment 2020-2021 USPAP FAQ #147 states:

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[310] You might encounter the mention of a fourth type of date—the **due date**, which is the date by which some clients might require that the assignment be completed. Due dates are contractual obligations and do not fall within the purview of USPAP (2020-2021 USPAP FAQ #225).

[311] Of course, the client is not the only person who might be providing property-identifying information to the signing appraiser. Other appraisers, subject-matter experts or specialists having the tools and techniques necessary to properly identify the property might also be retained to do so.

> *The effective date of an appraisal is determined by the intended use and the intended user. In most cases the intended use and/or the intended user dictates that the date provided is a specific day, month, and year. However, in some circumstances it may be acceptable to be less specific, (e.g., in a prospective appraisal assignment when an exact date cannot be accurately determined at the time the assignment is completed).*

The effective date of the appraisal puts the appraiser's value conclusions in the context of time. For example:

- In the case of an insurance claim, the effective date of the appraisal is the date on which the loss occurred.
- For a transit-related damage claims appraisal, the effective date is typically the date on which the damage was discovered—usually the date the household goods were delivered to their destination.
- For a noncash charitable contribution, the effective date is the date as of which the property was donated.
- For estate tax purposes, the effective date of the appraisal is the date of death (or the alternate valuation date six months later).

The effective date is a point in time. Technically, the effective date of the appraisal is the only date as of which the appraisal is valid. However, for reasons of practicality, appraisal report value conclusions are considered valid well beyond the effective date even though such an assumption could be entirely erroneous given the potential for value fluctuations of personal property. A sudden increase in silver bullion prices in the early 1980s (when silver soared from $5 per ounce to $50 per ounce) instantly made all silver appraisals outdated regardless of how recently they had been done. It is for this reason that insurance companies typically suggest that insurance appraisals for scheduled property be updated every three years.

• Date of the Report

The **date of the report** is not the date on which you **began** writing the report. Rather, it is the date on which the report was physically completed and **transmitted to the client**. (2020-2021 USPAP FAQ #151)

The date of the report represents the time when the market and value research and analysis was completed, i.e., when the appraiser finished his or her work. As such, the date of the report indicates the perspective from which the appraiser is examining the market. Was the appraiser considering past market activity and data such as would be done for a **retrospective** appraisal? Is only current market data being used such as would be the case for a **current** appraisal? Is the appraiser projecting what the market will be at some point in the future as would be done if the appraiser was developing an opinion of value for a **prospective** appraisal assignment?

Caution. Avoid using the ambiguous term "date of appraisal." The appropriate terminology is "effective date" of the appraisal to reflect the time period relevant to the assignment results, and

"date of the report" which indicates the date the appraisal analysis was completed. Do not use the misleading term "date of appraisal." (2020-2021 USPAP FAQ #148)

Relationship between Date of the Report and Effective Date

Two of the above three dates are particularly essential to all appraisal reports: the date of the report and the effective date of the appraisal.

- **INDICATES PERSPECTIVE:** As noted, the **date of the report** indicates the perspective from which the appraiser is viewing the market (e.g., in hindsight? currently? forecasting into the future?)

- **ESTABLISHES MARKET CONDITIONS:** The **effective date** of the appraisal establishes the market conditions at the time of the opinion of value.

It is the relationship that the **date of the report** has with the **effective date** of the appraisal that determines whether the effective date of the appraisal is either **current**, **retrospective**, or **prospective**, and, consequently, whether the appraisal is a **current** appraisal, a **retrospective** appraisal, or a **prospective** appraisal. We discuss each of these three types of appraisals below.[312]

- ## Current Appraisal

  If the effective date of the appraisal is **contemporaneous** with the date of the report, the appraisal is referred to as a **current** appraisal, i.e., it's an appraisal with conclusions that apply as of the effective date and **for a reasonable period** thereafter.

  Most personal property appraisals done for the intended use of acquiring insurance coverage are current appraisals.

  "Current" appraisal assignments are based on the effective date of the appraisal being **contemporaneous** with the date of the report. Contemporaneous means occurring during the same time period—but not necessarily occurring simultaneously. A specific amount of time cannot be mandated because the "same time period" may differ from assignment to assignment. The overriding factor is that for an assignment to include a current appraisal opinion there must not have been a significant change in the property's relevant characteristics or in market conditions between the effective date of the appraisal and the date of the report. (2020-2021 USPAP FAQ #155)

  Note that a current appraisal to determine value based on the replacement cost (new) (to replace an item by purchase or construction with a brand-new property) is based on quotes or bids provided by potential vendors. In a similar manner, when basing value on replacement cost (comparable) and seller asking prices for comparable properties (such

[312] The appraiser is allowed to include both a retrospective value as well as a current value in the same appraisal report. An example might be for use in litigation when an appraiser is asked to provide an opinion of loss-of-value. For personal property, both opinions of value would have to be developed in accordance with STANDARD 7 *Personal Property Appraisal, Development*. (2020-2021 USPAP FAQ #157). By the way, the appraisal report can also include both a current value as well as a prospective value if need be. (2020-2021 USPAP FAQ #159).

as antiques), the assumption is made that the seller will maintain that asking price for the foreseeable future.

Technically, in basing values on these vendor and seller bids and/or asking prices, the appraiser is assuming that there will be no change in such replacement costs between the date of the report and some future point in time at which the property might actually have to be replaced. This is a reasonable assumption to make if the appraiser can be reasonably certain that the vendor bids or seller asking prices that are proffered as of the date of the report will remain unchanged for a reasonable amount of time into the future. Naturally, over time replacement costs will change—thus the need for periodic insurance appraisal updates.

• Retrospective Appraisal

If the effective date of the appraisal is **prior** to the date of the report, the appraisal is referred to as a **retrospective** appraisal.

Retrospective appraisals are typically required for such intended uses as noncash charitable contribution appraisals, estate or inheritance tax matters, and law suits to recover damages.

In conducting market and value research for a retrospective appraisal assignment, the appraiser mentally goes back in time to the effective date of the appraisal and makes use of data which was available or could have been ascertained **as of that date or before**, **but not after**. As an example of a retrospective appraisal, an appraiser is asked on March 15, 2020 to do an appraisal of an item that had been donated to a local museum on December 29, 2019. The appraiser would normally make use of comparable sales data from market activity which occurred on or prior to the effective date of the appraisal, December 29, 2019, but see the next section for an exception to this rule.

Use of Post-Effective Date Information in a Retrospective Appraisal

Comparable sales occurring after the effective date of the appraisal are not normally used as a basis for value conclusions because they often occur well beyond the effective date of the appraisal and, therefore, are not reflective of market conditions as of the effective date. However, though they are infrequently used for developing an opinion of value, post-effective date comparable sales data can be used to **confirm** a market **trend** such as confirming a trend that prices were, indeed, heading upwards as of the effective date of the appraisal.

Having said that, there **are** times where post-effective value date information in retrospective appraisals can be used. Comparable sales that might have occurred **soon after** the effective date of the appraisal could be confirmation of a trend in values, but, if sufficient near-term data is discovered, perhaps it would **also** show not only a trend, but, indeed, an **established market condition as of the effective date**. If that market condition had been known as of the valuation date, it is reasonable to conclude that such information **would have been considered by a buyer or seller in their decision-making process**.

But how far beyond the effective date would such comparable sales data be reflective of market conditions as of the effective date? Post-effective date comparable sales occurring two years in the future might be suspect (unless market conditions had been stable all that time such as is common with many depreciable property types such as hand tools, children's clothing and toys, or small kitchen appliances). But how about comparable sales for appreciable property (such as a vintage Tiffany lamp or an old master's painting) that occurred within only a week or two of the effective date of the appraisal? That data might very well be applicable! Appraisers must study **market conditions** over the time period in question in order to make a decision as to a logical cut-off date to be used in the analysis. If the appraiser concludes that the post-effective date data is not merely an anomaly but rather is reflective of actual effective date market conditions as of the effective date of the appraisal, then such data can be used in the analysis.

> *With market evidence that data subsequent to the effective date was consistent with market expectations as of the effective date, the subsequent data should be used. In the absence of such evidence, the effective date should be used as the cut-off date for data considered by the appraiser.* (AO-*34 Retrospective and Prospective Value Opinions*)

In a similar fashion, the appraiser does not include in his or her analysis market-changing events which occurred subsequent to the effective date of the appraisal (such as the death (or impending death) of the subject artist soon after the effective date). While the appraiser does not take subsequent events into consideration when developing his or her opinions and conclusions, the appraiser can **disclose** in the report that such events did occur. Disclosing subsequent events in the report is particularly appropriate when the appraiser feels that the intended user(s) of the report could be misled by not knowing those facts at the time the appraisal report is **being used**. (2020-2021 USPAP FAQ #158)

Use Clear and Concise Language

Regarding retrospective appraisal wording, USPAP provides this guidance:

> *The use of clear and concise language and appropriate terminology in appraisal reports helps to eliminate misleading reports. To avoid confusion, the appraiser must clearly establish the date to which the value opinion applies. In retrospective value opinions, use of a modifier for the term* "*market value*" *and past verb tenses increases clarity.* [(e.g., ". . . the retrospective market value **was**…." instead of ". . . the market value **is** ….")] (AO-*34 Retrospective and Prospective Value Opinions*)

Supplemental reading:

- USPAP Advisory Opinion 34 *Retrospective and Prospective Value Opinions*

• Prospective Appraisal

If the effective date of the appraisal occurs **after** the date of the report, the appraisal is referred to as a **prospective** appraisal. In such assignments, the appraiser looks forward in time to predict the value of a property at some point in the future. Because of the vagaries of time and the uncertainty associated with prospective appraisals, the projected

effective date of the appraisal need not be as specific a date as for a current or retrospective appraisal. **It will often include only month and year**.

Prospective appraisals reflect current expectations and perceptions of market participants. Value conclusions should include reference to the time frame when the analysis was completed in order to give readers a point of reference from which the appraiser developed the prospective value opinion. This would only be of particular significance if the time frame during which the analysis was completed was distant from the date of the report.

Prospective appraisals should include a statement citing the anticipated market conditions noted at the time the appraisal was made, and indicating that the appraiser cannot be held responsible for unforeseeable events that could alter the market prior to the effective date of appraisal occurring.

Other than in the case of noncash charitable contribution appraisals (which can be done as far as 60 days in advance of the date of donation), personal property appraisers seldom become involved with prospective appraisals. An exception might be if the appraiser is tasked with developing an opinion of value which would be effective as of a projected future date of a proposed sale or purchase, but even this is an infrequent occurrence.

Supplemental reading:

- USPAP Advisory Opinion 34 *Retrospective and Prospective Value Opinions*

Fractional Appraisals

A **fractional appraisal** is an appraisal in which a value estimate is made on one of the component parts or on a percentage of an item without regard to the effect of the component's separation from the whole.[313]

Some types of properties such as real estate and some items of personal property including "collections" can be considered as made up of components or of "parts" of the "whole." Examples of whole properties and their component parts would include:

- Improved real estate is composed of land and of buildings.
- Businesses are made up of land, buildings, machinery and equipment, and of intangible assets such as contracts, goodwill, mailing lists, etc.
- A diamond ring can consist of a 2-carat diamond plus a platinum mounting.
- Consider a work of art owned by three siblings. Each owns a partial (1/3rd) interest in the art. The three interests make up the "whole" property.

[313] Do not confuse "fractional appraisal" with the term "fractional interest" which was discussed in Chapter 3 in the section entitled *Property Interests*.

- An automobile (while made up of many parts) is considered as whole property unto itself although in reality it consists of many individual pieces.

- The original artist might sell a work of art to a buyer who by means of the transaction is entitled to certain rights of ownership. But the purchase agreement states that the artist retains certain other rights such as reproduction rights or the right to make repairs to the artwork should they be needed. In this case, the artwork aggregated with the associated rights make up the "whole" property.

We talk about fractional appraisals because it is sometimes necessary to value only a **part** of a whole property, i.e., not the entire property itself, but rather only a part or percentage of the property, or only one or more of the components or pieces that make up the whole property.

- Consider the diamond ring that is comprised of a 2-ct. diamond plus a platinum mounting. If the diamond is lost but the mounting remains, an appraisal of the lost stone could be made. As such, it would be an appraisal of the stone, but it would also be a **fractional** appraisal of the ring.

- A restaurant is a whole property made up of several parts including the land on which it sits, the building itself, goodwill, and all the furnishings, machinery and equipment. The appraisal of the furnishings (tables, chairs, decor, etc.), machinery and equipment is only a fractional appraisal of the restaurant business. A **fractional** appraisal of the restaurant property which would include only the furnishings, machinery and equipment, and the building (excluding the land) might be needed in order to obtain insurance coverage based on the **insurable value** of the business.[314]

A fractional appraisal must be labeled as such. Doing so and being sure to clearly explain what the related whole property consists of (in addition to describing the fraction that is being appraised) will help ensure that the report is understandable and non-misleading. More on this issue below.

Effect of Fractionalizing on Value

Fractional appraisals must consider whether the part being appraised is viewed as **associated with** the whole property or as removed and **separate from** the whole property. This "fractionalizing" may cause varying impacts to values of both the part as well as on the whole multi-component property with which the part is associated. Both possibilities (i.e., associated with or separated from the whole), therefore, must be analyzed when doing a fractional appraisal and should be explained in the final report.

If an element is a component of a whole property (one pearl is a component of a pearl necklace), its value as part of the whole typically differs from its value if that one component were removed from the whole property and considered separately and standing alone. As an example, consider a fine antique Haviland porcelain dinnerware service for sixteen comprised of many parts—sixteen dinner plates, sixteen salad plates, sixteen bread plates, sixteen cups and saucers, sixteen soup bowls, and a myriad of serving pieces. The appraisal for claims purposes of one dinner plate that was destroyed in a move would be a **fractional** appraisal of the entire dinner service. By itself and without regard to its impact on the whole service, the plate is worth relatively little, but the

[314] See the Chapter 2 section entitled *Insurable Value*.

negative impact of its loss on the value of entire service (i.e., on the whole property) would be significant.

Parts Having Stand-Alone Value

If the component property being appraised could be considered as part of a multi-component whole property yet could also be considered as a viable standalone property, it could have two different values depending on whether it is considered:

- As being part of the whole property (in which case its contribution to the completeness and functionality of the whole could demand a premium in value for the part), or

- As being separated from the whole property and considered merely as a standalone, independent (yet useful) entity unto itself.

A single glove when part of a pair of $24 gloves is worth $12, because in this case the value of the whole (i.e., the pair) equals the sum of the value of the two component parts. But if viewed as standing alone, the single glove is useless and, accordingly, has no value at all when considered as a standalone property.

On the other hand, other properties are considered useful and of value whether or not they are considered as a component part of a whole property. The value of the component part, however, will be more if it is being considered as a part of a whole property (as such, it's standalone value merges with the value of the other component parts in a complementary fashion) as opposed to being considered as merely a standalone property. For instance, a single 18th century sterling silver candlestick may be worth $3,000 if it is alone and not part of a pair. But if part of a pair, each candlestick has a premium in value added because it causes the pair to be complete and, as such, incrementally more desirable to collectors. Accordingly, when considered as part of a pair, each single candlestick contributes $3,600 in value to the whole property making the pair worth $7,200 when considered together. In this instance, the whole property value of $7,200 exceeds the $6,000 value of the individual parts if they were to be considered separately.

The value of the whole being greater than the aggregate value of the individual parts is a common characteristic of pairs, sets and suites of appreciable property. This, however, is not always the case. Consider, for instance, a common Mikasa porcelain dinnerware service for which the value of the whole service is typically less than the aggregate value of the pieces when those individual pieces are considered individually.

Regarding developing values of component parts of a property, consider this admonition which is found in USPAP SR 7-4(f):

> *When analyzing the assemblage of the various component parts of a property, an appraiser must analyze the effect on value, if any, of the assemblage. An appraiser must refrain from valuing the whole solely by adding together the individual values of the various component parts.*
>
> *Comment: Although the value of the whole may be equal to the sum of the separate parts, it also may be greater than or less than the sum of such parts. Therefore, the value of the whole must be tested by reference to appropriate data and supported by an appropriate analysis of such data.*

It stands to reason, then, that a similar procedure must be followed when the value of the whole has been established but the appraiser seeks to value only a part of the whole. The value of any such part must also be tested by reference to appropriate data and supported by an appropriate analysis of such data.

As noted, the effect of fractional appraisals on the whole multi-component property itself must be considered. This is of most noticeable concern in damage claims appraisals where the loss of or damage to a part of the whole property may cause significant loss-of-value to the whole property itself.

Consider again the Haviland dinner plate mentioned above. Its value might be $50 if it was by itself and independent of any other pieces. But as part of the whole dinnerware service, it is used simultaneously with the other parts, so its value to the owner is greater than if it alone had been owned as a single plate. Therefore, the impact of its absence as an integral part of the otherwise complete dinnerware service has a significantly greater effect on the value of the service than if considered as a standalone plate. If complete, the Haviland dinner service might be worth $5,500. But with a missing dinner plate, the service might be worth only $5,000, i.e., the loss of a single $50 plate has reduced the value of the whole service by $500.

The difference in value between $50 and $500 is based on the degree of future anticipated benefits that are lost to the owner by virtue of the damaged dinner plate. In the first instance, the anticipated benefits of owning only one plate and using that one plate were minimal. But in the second instance, the lost future benefits of being able to elegantly entertain sixteen guests at one time or of having the prestige of owning a complete Haviland service for sixteen is significant and accounts for the premium in value when the single plate is considered part of a larger whole as opposed to being a standalone item.

Intended Use Impacts Value of "Parts"

The reason for which the fractional appraisal is being conducted (i.e., the "intended use" of the appraisal) also impacts the value of component parts. Consider the above-mentioned restaurant furnishings—the totality of which is considered to be a "part" of the "whole" business.

If appraised for the intended use of acquiring insurance coverage as part of a going concern, the furnishings might have a **market value-in-place** of $150,000. But if valued for the intended use of **liquidation purposes** as if separated from the hotel and being sold at used-furnishings prices, their **orderly liquidation value** might be only $45,000.

Preliminary Appraisals



On occasion, a client might request that the appraiser provide a preliminary estimate of value (i.e., a preliminary appraisal) **prior to** completing the appraisal assignment. Typically, the client asks that this value estimate be provided orally with the goal of using those preliminary values in order to make a decision as to how to move forward to solve the issue at hand.[315] In order to save money, oftentimes the client wants the appraiser to perform

[315] Attorneys often prefer oral preliminary appraisal because, unlike information shared in writing, information shared orally with an attorney is not discoverable by the other side during the pretrial discovery phase of a lawsuit.

only a minimum amount of work. If the values opined are not what was hoped for, the appraiser can bill only for research services already rendered and the assignment will have been completed.

The term "preliminary appraisal"[316] is not defined by USPAP; however, that matters not when it comes to USPAP compliance. The appraiser's USPAP obligations are predicated on the nature of the service the appraiser provides and not on the "label" being assigned to that particular service. Was an appraisal performed or not? Was an opinion of value developed or wasn't it?

An *Appraisal* is defined by USPAP as:

> *APPRAISAL: the act or process of developing an opinion of value; an opinion of value.*

Accordingly, if the service being provided meets this definition, then the "preliminary appraisal" is, indeed, an appraisal, and (for personal property) STANDARDS 7 *Personal Property Appraisal, Development* and 8 *Personal Property Appraisal, Reporting* would apply as would the RECORD KEEPING RULE which requires a workfile be maintained.

Of course, caution must be taken to avoid accepting an assignment which involves unacceptable assignment conditions. Is the scope of work performed insufficient to develop credible assignment results? Is the report content being limited in such a way as to make the report misleading? Does the imposed assignment condition preclude the appraiser from being impartial, objective and independent? The answer to all three questions must be "No" in order for the appraiser to proceed.

Draft Appraisals



On occasion, the client may request that the appraiser provide a written draft appraisal report in advance of the written final appraisal report. But USPAP does not currently define or even address draft appraisal reports. USPAP only defines the term "*Report*" and then only as the term is used in conjunction with a **completed assignment**. **USPAP** also makes no reference to a **draft appraisal report** even as the term might be used in conjunction with an assignment that has yet to be fully completed.[317]

Yet, appraisers are sometimes asked to communicate their interim opinions and/or conclusions in some form of a formal, written "draft" report **prior to** the completion of an assignment. (Draft appraisal reports are also referred to as "interim" reports.)[318] The problem with "draft" appraisal requests is that the intent of the request might be so that the client can attempt to influence the appraiser prior to the completion of the assignment and the issuance of the final report. This, of course, would be improper.

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[316] Do not confuse "preliminary appraisals" with "draft appraisals" which are discussed in the following section.

[317] A draft appraisal report could range from a spreadsheet listing the items along with their anticipated values to a fully written appraisal report containing all the information that will be in the final report, only it is labeled "draft" and is lacking the appraiser's signature.

[318] Note that USPAP does not define the terms "preliminary appraisal," "draft appraisal," "interim appraisal," or "preliminary estimate of value," though some of these terms are used in the USPAP publication's Advisory Opinions and FAQs.

Having said that, there may also be legitimate uses for draft appraisal reports. Sometimes, draft reports are needed initially to advance further discussion in order to clarify problem identification, assignment conditions or scope of work issues. Draft reports might also be helpful to ensure that the final report adequately addresses relevant legal issues anticipated to be encountered.

Draft Reports Subject to USPAP

Recall that USPAP defines a *Report* as:

> *REPORT: any communication, written or oral, of an appraisal or appraisal review that is transmitted to the client or a party authorized by the client* ***upon completion of an assignment****.* [emphasis added]

Since it is issued **prior** to the completion of an assignment, a draft appraisal report is not a "*Report*" as defined by USPAP. However, issuing a draft appraisal report **would** be considered as "appraisal practice" since it is a "valuation service" being performed by an appraiser. Having said that, there are no STANDARDS that apply to any report **other than** reports that are transmitted **upon completion** of an assignment, so none of the ten STANDARDS would apply to draft appraisal reports.

But while none of STANDARDS 1 through 10 apply to a draft report, as appraisal practice, draft reports would still be subject to the **general** obligations of USPAP including its DEFINITIONS, PREAMBLE, ETHICS RULE, COMPETENCY RULE and JURISDICTIONAL EXCEPTION RULE.

What is more, note that USPAP's PREAMBLE states that the appraiser must communicate **any** opinions, conclusions or analyses (not just the final version of an appraisal report) to the client and other intended users in a manner that is *"meaningful and not misleading."* And the ETHICS RULE admonishes the appraiser against communicating a report that is *"misleading or fraudulent."* Accordingly, appraisers must use care to ensure that any communication with the client regarding assignment results[319] (whether a final appraisal report, a draft appraisal report or merely an incidental related communication) be meaningful and not misleading or fraudulent. (2020-2021 USPAP FAQ #329)

Draft Reports Used for Billing Purposes



When collecting payments due, some appraisers first send the client an unsigned copy of the report in PDF format via email along with an invoice for the amount due. The unsigned copy of the report has the word "Draft" watermarked across each page to prevent its use. Once payment is made, a signed report without the watermark is sent.

Hybrid Appraisals



On occasion you might see the term "hybrid" appraisal being used—a term not defined by USPAP. A hybrid appraisal is one that is fully compliant with USPAP but might make use of atypical methodology to achieve compliance. For instance, the following

[319] Recall that assignment results include an appraiser's opinions and conclusions and are **not limited to value** alone.

are considered to be hybrid appraisals:

- When the property inspection is performed by someone other than the appraiser completing the appraisal.

- For some oral appraisal assignments, a hybrid appraisal could be considered to be one that is not entirely "oral." Such as one:

    - Which (for purposes of making the oral report clearer and more understandable to the client) has some elements of required information provided to the client in a written form in what is referred to as an "oral appraisal report disclosure statement."

    - Which might make use of an electronic audio recording device to preserve data for possible future use in developing a written Appraisal Report.

    - Which (for expediency purposes) might make use of a client-prepared spreadsheet listing the items and on which the client records the appraiser's oral value opinions and conclusions.

Contingent Appraisals

Appraisers are responsible for having and applying their own professional knowledge and abilities, but, at times, good appraisal practice requires the use of information from outside sources. Such sources might include:

- Other appraisers
- The client
- Experts
- Repair or testing services
- Accountants
- Authenticators
- Gem, coin, sports card or stamp grading services

A **contingent appraisal** is an appraisal assignment in which the validity of an appraiser's conclusions, opinions or analyses are dependent upon the accuracy of information or data provided to the appraiser from other sources.

Contingent appraisals might also include those appraisals in which **significant personal property appraisal assistance** is provided by other appraisers. Such "appraisal assistance" could range from others conducting market data research or identifying the subject property and its relevant characteristics to assignments in which complete appraisals of a specialty item are provided by a specialist appraiser.

Contingent appraisals also include those in which advice or technical information is provided by specialists such as a gemologist who reports on the various qualities of a diamond, or an authenticator who reports on whether or not an item is genuine, or an art conservator who reports on the condition of an Old Masters painting.



The signing appraiser must have confidence in information received from others (including appraisers as well as non-appraisers) on which the appraiser bases an opinion or conclusion. USPAP Standards Rule 8-3(c) states:

> *(c) When a signing appraiser has relied on work done by appraisers and others who do not sign the certification, the signing appraiser is responsible for the decision to rely on their work.*
>
> > *(i) The signing appraiser is required to have a reasonable basis for believing that those individuals performing the work are competent; and*
> >
> > *(ii) The signing appraiser must have no reason to doubt that the work of those individuals is credible.*

Using Specialist Appraisers and Other Colleagues

When relying on the accuracy of information provided by others, the appraiser must note such reliance as an **extraordinary assumption** within the appraisal report and must retain such information in the assignment workfile so that, if necessary, it can be reviewed by the client and other intended users of the appraisal report. (2020-2021 USPAP FAQ #284)

Disclosure of the extraordinary assumption could be similar to the following:

> *"The fair market value of the estate is, in part, dependent on the fair market value of the firearms (items #093 through #124 inclusive) as provided to us by XYZ Gun Specialists. I have not verified the validity of these values, but I assume them to be credible and reliable. The use of this extraordinary assumption might have affected the assignment results."*

In deciding that the individual providing the specialty appraisal is competent, you may wish to note such things as the specialist appraiser's:

- *Relevant experience, education, or references; or*
- *Evidence of professional status, such as license, professional designation, or other recognition or professional or academic achievement* (2020-2021 USPAP FAQ #284)

It is important to note that the determination of another appraiser's competency may not be established by a single factor, but instead may require a combination of factors. Ultimately, it is the signing appraiser's decision as to whether or not the specialist appraiser is competent, and that decision must be based on reasonable criteria. In addition, it is of paramount importance that the signing appraiser have no reason to doubt that the work of the specialist appraiser is credible.

If an assisting specialist appraiser prepares an appraisal report for particular items falling within his or her area of expertise, the signing appraiser could attach the assisting appraiser's report to the primary report as evidence of the analyses, opinions and conclusions for those particular items. In addition, the signing appraiser must document the assistance provided by:

- Describing it in the primary report's scope of work, and by
- Identifying the assisting appraiser in the primary appraisal report's USPAP certification.[320]

Reporting Requirements

As noted above, when making use of **significant** personal property appraisal assistance **provided by another appraiser**, identify the appraiser within the USPAP certification **and** describe the assistance provided within the report's scope of work statement.

If assistance is provided by one who is **not** an appraiser but who, nonetheless, provides assistance that is considered "significant," do not identify the individual in the USPAP certification (since USPAP applies only to appraisers), but do describe the extent of assistance he or she provided in the report's scope of work.

If non-significant assistance is provided (regardless of whether by an appraiser or by a non-appraiser) there is no requirement to identify either the individual or the non-significant assistance provided in either the certification or in the scope of work statement.[321]

Team Appraisals

On occasion, the primary appraiser will invite specialist appraisers to join together as an appraisal **team** in order to complete a very large assignment.[322] For instance, a large estate might include contemporary fine art, 19th century English silver, antique oriental rugs, early French furniture, and fine jewelry. With a team appraisal, value conclusions for each property type are prepared separately by the team member/appraiser having knowledge and experience in each specific property type. (See 2020-2021 FAQ #292)

Team appraisals are characterized by each appraiser preparing his or her own analyses, opinions and conclusions independently and in conformity with USPAP, and by each appraiser taking responsibility for their respective analyses, opinions and conclusions by signing a report certification.

USPAP SR 8-2(a)(xiv) (when using the Appraisal Report option) and SR 8-2(b)(xvi) (when using the Restricted Appraisal Report option) require that all appraisal reports contain a USPAP certification signed by the appraiser(s) taking responsibility for the assignment results. In the case of a team appraisal where portions of the reported assignment results have been prepared by different specialist appraisers, the USPAP certification statement must be altered in such a way as

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[320] It is only necessary to identify this individual **if** the person is an **appraiser** and **if** he or she provided **significant appraisal assistance**; otherwise, no need to identify the individual in the USPAP certification.

[321] There are other discussions in this book regarding assistance provided by other appraisers and specialists. See the Chapter 3 section entitled *Relying on Information Provided by Others*, the Chapter 7 section entitled *Assignments Involving Assistance from Others* and the Chapter 9 section entitled *More Than One Appraiser*.

[322] Not all who provide the appraiser with services are appraisers. USPAP defines an "appraiser" as one who is **expected** to perform valuation services competently and in a manner that is independent, impartial and objective. It is this "expectation' that is key in determining if one is acting as an "appraiser."

to clearly indicate which portions of the reported assignment results and report content are being certified to by each appraiser.

Note what USPAP states regarding this matter. Assisting signing appraisers take responsibility only for report content that is specific to their specialty area:

> *In an assignment that includes only assignment results developed by the personal property appraiser(s) from the same personal property specialty, any appraiser(s) who signs a certification accepts full responsibility for all elements of the certification, for the assignment results, and for the contents of the appraisal report. In an assignment involving appraisers with expertise in different specialties (e.g., antiques, fine art, or machinery and equipment), an appraiser who signs the certification may accept responsibility only for the elements of the certification, assignment results, and report contents specific to the appraiser's specialty. The role of each appraiser signing the certification must be disclosed in the report.* (Comment to USPAP SR 8-3(b))

Options to affect this include:



- The report can contain a single certification (signed by all appraisers) signed in such a way as to indicate the assignment results and report content for which each appraiser is taking responsibility. For instance, the certification is signed:

  Larry Roberts (for Oriental Rugs)
  James Richardson (for jewelry)
  Audrey Hanover (for fine art)
  Bruce Jepson (for furniture)



- The report can contain multiple certifications, each signed by a specialist appraiser and altered so as to indicate the property type for which they are taking responsibility, e.g.:

  USPAP Certification

  For the Oriental rugs included in this appraisal (items 14 through 25), I certify that, to the best of my knowledge and belief…

  … /s/ Larry Roberts

Supplemental reading:

- USPAP Advisory Opinion 31 *Assignments Involving More than One Appraiser*

Hypothetical Appraisals

A **hypothetical appraisal** is an appraisal in which the appraiser's analyses, opinions or conclusions are based on a **hypothetical condition**. A hypothetical condition is a condition which is contrary to what actually exists as of the effective date of the appraisal, but which is **supposed to exist** for the purpose of the appraisal assignment.

USPAP defines a *Hypothetical Condition* as:

> *HYPOTHETICAL CONDITION: a condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results, but is used for the purpose of analysis.*
>
> *Comment: Hypothetical conditions are contrary to known facts about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis.*

Any condition that the appraiser knows to be false as of the effective date of the appraisal but which is necessary to assume to be true for purposes of his or her analysis is a hypothetical condition. In preparing an appraisal that takes into consideration a false condition, the appraiser (as instructed to do so by the client) assumes that the hypothetical condition does, indeed, exist for purposes of the assignment. A hypothetical condition might define an assumption the appraiser is to make as to the condition of the property, or, perhaps, as to the state of the market as of a particular date.

As an example, consider a painting that is in poor condition and that the owner is considering having restored. Art restoration can be very expensive and, often, the value of the work will be less after restoration than if it were left in pristine, original condition. On other occasions, however, just the opposite is true. If a painting is so darkened because of age and grime that the image is obscured, restoration may improve its value considerably.

Before the restoration is undertaken, the appraiser may be asked to determine the value of the painting **assuming** that it had been professionally restored. Knowing this, the owner can decide whether the painting's potential value merits the expense of restoration. The appraisal is hypothetical because the work of art has actually **not** been restored as of the effective date of the appraisal. It remains, in fact, in a poor and un-restored condition as of the effective date.

Another example would be a client who has a chipped 5.05 carat diamond and is wondering what to do with the large but damaged stone. The gemologist appraiser may be asked to conduct a hypothetical appraisal making the assumption in doing so that the diamond has been re-cut to 3.80 carats which would not only remove the chip but which would also remove some inclusions, thus improving the gem's clarity by one grade. Would an increase in value result from such a repair? Is it worth the effort?

Here is yet another, very common scenario in which a hypothetical condition is assumed. When doing a damage claims appraisal such as in the case of items damaged during a recent move, the appraiser might be asked to provide an opinion of replacement value for damaged items assuming they are in their pristine, pre-move condition. In such a scenario, the appraiser assumes a hypothetical condition. Specifically, the appraiser assumes the items are not, in fact, damaged but rather that they are undamaged—a condition that is clearly contrary to known facts.

Hypothetical appraisals can answer such questions such as these.

Should they be encountered, hypothetical conditions must be disclosed in the appraisal report along with a statement that the hypothetical conditions might have affected the assignment results. USPAP SR 8-2(a)(xii) (when using the Appraisal Report option) and SR 8-2(b)(xv) (when using the Restricted Appraisal Report option) require the appraiser to:

> *…clearly and conspicuously:*
>
> - *state all extraordinary assumptions and hypothetical conditions; and*
> - *state that their use might have affected the assignment results…*

The appraiser need not report on the specifics of the possible impact of the hypothetical condition encountered—only that the hypothetical condition encountered might have affected the assignment results. (2020-2021 USPAP FAQ #236)

Avoid Incorrect Usage of the Term

Some appraisers incorrectly state that a hypothetical appraisal is one based on appraising an item without the benefit of having personally examined the property such as might be the case when valuing a property that has been lost by theft or fire. These are not, in fact, hypothetical appraisals. They are merely appraisal assignments that must be based on limiting conditions and extraordinary assumptions.

Hypothetical appraisals are **only** those appraisals which take into consideration an assumed hypothetical condition which, as of the evaluation date, does not, in fact, exist.

Limiting Conditions

Limiting conditions are those prevailing assignment conditions or circumstances that could adversely affect the opinion development phase of the appraisal process and could, therefore, possibly affect the appraiser's final opinions, analyses or conclusions.

Limiting conditions are another type of assignment condition which the appraiser is required to identify and disclose. Specifically, USPAP SR 8-1(c) requires that the appraiser:

> *…clearly and accurately disclose all assumptions, extraordinary assumptions, hypothetical conditions, or **limiting conditions** used in the assignment…* [emphasis added]

Limiting conditions are often involved with the inspection process or with limitations placed on the appraiser by assignment conditions, some of which might be client-imposed:

- A limiting condition exists when the property is not available for personal inspection by the appraiser such as would be the case if an item was stolen or lost in a fire.
- A limiting condition exists when there are existing conditions that prohibit complete inspection of the property such as:
  - The lack of electrical power to test appliances and electronic equipment
  - A shortage of time in which to conduct the inspection

  - The inability to remove a large painting from the wall or to move a large piece of furniture away from the wall for proper inspection
  - Poor lighting which makes inspection difficult

- Limiting conditions are involved in prospective appraisals. The appraiser forecasts market conditions. Those conditions may change, and unforeseeable events might occur.
- The client's refusal to fund needed authentication services may limit the appraiser's ability to prepare a non-misleading appraisal report. In such a case, the appraiser might feel compelled to withdraw from the assignment.

Lack of Competency as a Limiting Condition[323]

Limiting conditions do not of themselves require that the appraiser withdraw from the assignment **if those same limiting conditions would be faced by any other appraiser**. But an appraiser's lack of knowledge about a particular property is a limiting condition that would **not** be faced by one who was more knowledgeable. The limiting condition of "lack of competency" **could** be a reason to not agree to perform an assignment (or to withdraw from an assignment that is in progress when the lack of competency is discovered) but only if the lack of competence is not remediated prior to accepting the assignment (or at the time the lack of knowledge is discovered). To overcome such a limiting condition as a lack of competence, the appraiser must:

- Disclose the lack of knowledge and/or experience to the client before accepting the assignment or when the deficiency is noted, and
- Take all steps necessary to complete the assignment competently, and
- Describe the lack of knowledge and/or experience and the steps taken to complete the assignment competently in the report. As an example, this might entail:
  - Undertake additional study (courses, literature research, reference reading), or
  - Associate (with the concurrence of the client) with an appraiser who does possess the necessary knowledge or experience needed to appraise those items about which the appraiser is not knowledgeable, or
  - Retain other experts or technicians who have the necessary knowledge and/or experience to contribute to the scope of work in order to enable the appraiser to complete the assignment competently him- or herself. For the personal property appraiser, this option might include retaining an expert to conduct an authentication, an outside lab to conduct a wood or ceramic analysis, or a gemological laboratory to certify a gemstone.

Limiting Conditions Lead to Extraordinary Assumptions

Limiting conditions often require the appraiser to make use of **extraordinary assumptions**, any one of which, if inaccurate, could adversely affect the appraisal report. All limiting conditions (as

[323] See the Chapter 7 section entitled *Competency Rule* for a further discussion of appraiser competency.

well as extraordinary assumptions) must be disclosed in the appraisal report. Such disclosures are particularly important with appraisal assignments in which the appraiser did not personally inspect the property, such as in fire loss or theft cases or with online appraisals conducted via the Internet.

Extraordinary Assumptions

An extraordinary assumption is a necessary assumption made by the appraiser which is **assumed** to be true, but which, **if NOT true**, could affect the appraiser's opinions or conclusions. Extraordinary assumptions are assumptions that are:

- Related to the appraisal assignment,
- Made as of the effective date of the appraisal, and
- Made by the appraiser out of necessity in order to formulate his or her opinions or conclusions.

USPAP defines an *Extraordinary Assumption* as:

> *EXTRAORDINARY ASSUMPTION: an assignment-specific assumption as of the effective date regarding uncertain information used in an analysis, which, if found to be false, could alter the appraiser's opinions or conclusions.*
>
> *Comment: Uncertain information might include physical, legal, or economic characteristics of the subject property; or conditions external to the property, such as market conditions or trends; or the integrity of data used in an analysis.*

An assumption that an item of property is authentic and not a forgery is such an extraordinary assumption. An assumption that all the electrical appliances in the house are in working order is also an extraordinary assumption, as is an assumption that the values provided by a specialist appraiser who provided significant personal property appraisal assistance are valid.

If the extraordinary assumptions on which the appraiser relied turn out to be false, the assumptions could, in turn, cause the appraiser's opinions or conclusions to be affected.

Extraordinary assumptions must be disclosed within the appraisal report so the client and all intended users of the appraisal report are aware of the basis for the appraiser's conclusions. USPAP SR 8-2(a)(xii) (when using the Appraisal Report option) and SR 8-2(b)(xv) (when using the Restricted Appraisal Report option) require the appraiser to:

> *…clearly and conspicuously:*
>
> - *state all extraordinary assumptions and hypothetical conditions; and*
> - *state that their use might have affected the assignment results…*

The appraiser need not report on the impact of the extraordinary assumption—only that it might have affected the assignment results. (2020-2021 USPAP FAQ #236)

Specifically, appraisals based on extraordinary assumptions must disclose:

- That the appraiser has used extraordinary assumptions as a basis for the reported opinions or conclusions, or portions thereof,
- A description of the extraordinary assumptions made,
- The circumstances which called for the use of extraordinary assumptions,
- The information that was provided to the appraiser on which the extraordinary assumption is based.

Extraordinary assumptions may be called for in any type of appraisal, but they are particularly applicable in placing a value on property which is no longer available for the appraiser's inspection such as stolen property or property that has been destroyed by fire or flood. They are also required when doing an online Internet appraisal in which case the appraiser does not personally inspect the property. Such assignments make use of information provided to the appraiser by the client or third-parties.

Extraordinary assumptions are necessary any time value is based on the use of client- or third party-provided descriptions and images in lieu of a personal inspection. In such cases, the appraiser even needs to make the initial critical extraordinary assumption that the item existed in the first place, and that it was, indeed, owned by the client as claimed. Additional extraordinary assumptions as to quality of construction, condition, authorship, materials, etc. may also be required.

Reliability of Client-Provided Inspection Data



On occasion (such as a fire loss), in lieu of conducting a personal inspection, the appraiser instead relies on client-provided descriptions regarding the subject property and its relevant characteristics. Or the client might provide the appraiser with a past appraisal containing the subject property's relevant characteristics. In such instances, the appraiser must make use of his or her judgment in order to gauge the reliability and completeness of the client-provided information before determining whether or not to make use of an extraordinary assumption.

- No extraordinary assumption need be considered or made if the appraiser considers the client-provided information to be reliable and sufficient to properly identify the property characteristics.
- On the other hand, if the appraiser determines that the client-provided information is either unreliable or insufficient to identify the property characteristics, then the appraiser must either 1) expand the scope of work to allow the gathering of all necessary information, 2) make use of an extraordinary assumption, or 3) withdraw from the assignment.

Hypothetical Conditions vs. Extraordinary Assumptions

Hypothetical conditions differ from extraordinary assumptions. The difference rests on what the appraiser knows about the assignment condition in question:

- **Appraiser uses assignment conditions known to be false**

  If, in order to conduct his or her analysis, the appraiser is asked to use an assignment condition he or she knows to be false as of the effective date of the appraisal, then that is a **hypothetical condition**. Examples would be the above-mentioned painting the owner was considering having restored or the diamond the owner was considering having re-cut.

- **Appraiser uses assignment conditions believed to be true**

  If, on the other hand, the appraiser cannot verify an assignment condition as true, but he or she believes or is lead to believe that it is true, and the appraiser has no reason to doubt that it is true, then that assignment condition is an **extraordinary assumption**. An example is the extraordinary assumption (based on the client's statement) that the stolen vase was sterling silver and not merely silver-plate.

Oral Appraisal Reports

In Chapter 1 there was a brief introduction to oral reports in general (both oral appraisal reports as well as oral appraisal review reports). In this section, we will focus only on oral **appraisal** reports.[324]

Does USPAP Apply to Oral Appraisal Reports?

Given the popularity of television antiques appraisal programs and local "Appraisal Days," one often wonders if these apparently off-the-cuff opinions of value are considered bona fide "appraisals" and, if so, whether or not the appraisers are bound to comply with any particular professional standards. One need only look to the PREAMBLE and ETHICS RULE of USPAP for the answer—both address the public's **expectations**.

Whether or not USPAP applies to **any** particular assignment (including those making use of oral reports) depends largely on what the **expectations** are of the public, client and other intended users. If the public is led to expect that the individual (perhaps because of the individual's own self-promotion as being one who offers appraisal services) will provide valuation services that are competent, ethical and without bias or advocacy, then, for all intents and purposes, the person providing those services is considered an appraiser and **should** comply with USPAP. Moreover, when that individual is required by law, regulation, societal requirements, or agreement with the client to perform in accordance with USPAP, then the appraiser **must** comply with USPAP.

Who else must comply? This issue of USPAP compliance will be covered in detail later in the book[325], but for now, note that in addition to those noted above as being required to comply, appraisers must also comply with USPAP if they belong to an appraisal society that mandates USPAP compliance by their members (and nearly all do).[326] For those appraisers who do not

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[324] See the Chapter 1 section entitled *Oral Reports* and the Chapter 2 section entitled *Walk-Throughs.*
[325] See the Chapter 7 sections entitled *When Must an Appraiser Comply with USPAP?* and *Does USPAP Apply?* for additional discussions regarding the appraiser the appraiser's USPAP compliance requirements.
[326] TAF itself requires that members of its Sponsoring Organizations comply with USPAP (as well as with the AQB's *Appraiser Qualification Criteria*). There are three personal property appraiser organizations that are Sponsoring Organizations: the American Society of Appraisers, the International Society of Appraisers, and the Appraisers Association of America. All members of these societies **must** comply with USPAP.

belong to a professional appraisal society, they **should** (and would be well-advised to) comply with USPAP not only to help minimize legal exposure for malpractice but also to help maintain the public's trust in the profession.

USPAP Requirements Regarding Oral Appraisal Reports

As noted in USPAP SR 8-4, an oral personal property appraisal report must address "*to the extent that it is both possible and appropriate"* the substantive matters set forth in USPAP SR 8-2(a), which establishes the minimal content for an Appraisal Report. In brief, oral appraisal reports should include a description and value of the property along with the assumptions, conditions, and reasoning/basis (for objects of significant value) on which the value opinion is based.

Avoid Taking Shortcuts with Oral Reports

Do not limit the oral report to such a degree that it would be misleading or poorly understood. USPAP requires that all reports be set forth in a manner that is **not misleading**, that they be **credible** and that reports contain sufficient information to enable the client and other intended users to **understand them properly**. Here are some tips to ensure your oral appraisal reports are not misleading and will be properly understood by the client and other intended users, despite the assignment results not being in writing:

- Be sure to properly identify and discuss with the client the appraisal problem including intended use, value type and definition, the client's or other intended users' objectives, needs (take photos? document dimensions?), budget, time frame, possible contentious issues among intended users, client's degree of familiarity with the subject property etc.

- Discuss intended use with the client. This is of particular importance in order to avoid confusion when there is more than one intended use—equitable distribution? sales advisory? retain and insure? considering charitable donation? Sometimes the final use is not determined with certainty until after the oral appraisal.

- Clearly disclose and discuss limiting conditions being encountered, assumptions being made, and statement of work intended and that was actually performed.

- Clearly state the identity of the subject property and its relevant characteristics to the extent required by the intended use and needs of the client.

- State the approach to value being employed, the subject property's value and the basis for that opinion to the extent required by the intended use of the report and the needs of the client and other intended users.

- Discuss with the client the level of marketplace demand for the property type and whether or not alternative markets (such as a specialized auction for a specialized property type) are available and need be considered.

- If applicable to intended use, discuss the client's desire for absolute liquidation, i.e., does the client seek liquidation regardless of price received? Or, will client keep property if a minimum reserve is not met?

In the following section, we discuss the Oral Appraisal Report Disclosures Statement (OARDS), the use of which will help to ensure that all necessary critical elements of information are properly disclosed to and discussed with the client and other intended users.

Even Oral Appraisal Reports Have Written Components

Note that even **oral** appraisal assignments have **written** components. Just because a report is presented orally does not mean that there are no written documents or record of the report. For example:

- The RECORD KEEPING RULE requires that there be an assignment workfile for an oral appraisal **and** that the workfile contain a summary of the oral report (or a transcript thereof such as a digital audio/video recording).

- The RECORD KEEPING RULE also requires that the workfile contain a copy of the appraiser's signed and dated USPAP certification.

- Most appraisers make use of a written contract which also becomes part of the workfile. The contract can include several of the USPAP SR 8-2(a) elements of information (which are required by USPAP SR 8-4 *Oral Appraisal Report*) to be identified by the appraiser as part of problem identification such as the identity of the client, the effective date of the appraisal, the type and definition of value to be reported, etc. If space is provided, the contract can also be used as the USPAP-required written summary of the oral appraisal report.[327]

- Some appraisers also make use of an Oral Appraisal Report Disclosures Statement which provides the oral appraisal report client with more USPAP SR 8-2(a) disclosures in written format that the appraiser is otherwise required to address verbally by USPAP SR 8-4. The OARDS ensures that none of the substantive matters of the reporting standard of SR 8-2(a) are overlooked and that all are disclosed during an oral appraisal assignment.[328], [329]

Oral Appraisal Report Workfile Sufficient to Produce Written Appraisal Report

What is more, the RECORD KEEPING RULE of USPAP also requires that a workfile for an oral appraisal report be sufficient for the appraiser to produce a (written) Appraisal Report. This is a significant requirement for those doing oral appraisal reports that has been in effect since the

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[327] See Appendix AA *Agreement for an Oral opinion of Value (Oral Report Summary)*

[328] For an example, see Appendix HH *Oral Appraisal Report Disclosures Statement*. Appendix HH is only a template. Be sure to edit it as necessary in order for it to be applicable to the assignment at hand.

[329] For any appraisal assignment, there are important elements of information about which USPAP requires the client be informed. For oral appraisal reports, that information is contained in Standards Rule SR 8-2(a) (the are the Appraisal Report option requirements). Often, though, such information is misunderstood by the client and possibly not even discussed during the oral report process. By preparing an OARDS and reviewing it with the client, you are assured that the client has been made aware of these important elements of information. The OARDS, in combination with the appraiser-client agreement, will properly identify critically important issues as identifying the appraisal problem including identification of the client and intended users, definition of value, significant assumptions and necessary disclosures, approach to value employed, assignment conditions, statement of work, etc. Such thoroughness will help ensure that the report is meaningful and properly understood.

2018-2019 edition of USPAP. This requirement mandates that the appraiser perform oral reports and maintain a workfile in such a way as to be able to produce a written Appraisal Report at some point in the future. This requirement might entail making an audio/video recording of the oral appraisal, or of writing down a contemporaneous detailed record of your findings while on site conducting the oral appraisal, or having the client or an assistant take notes for your workfile. Regardless, according to this requirement, henceforth for any oral appraisal report assignment you perform you will need to have a workfile containing sufficient documentation to allow you to prepare a written Appraisal Report perhaps years down the road.[330]

A Rose by any Other Name: VAVs, EOVs and POVs are all "Appraisals"

In the mid-1990s as USPAP became a growing force within the appraisal profession, some appraisers attempted to distance themselves from the need to comply with USPAP by using terms for their work-product other than "appraisals" such as "valuations." In addition, oral reports or "quickie" email reports were called "verbal approximations of value (VAVs)," "estimates of value (EOVs)," "professional opinions of value (POVs)," or some other such term.

USPAP SR 8-2 *Content of a Personal Property Appraisal Report* admonishes the appraiser to avoid attempting to circumvent the need to comply with USPAP by using a label other than "appraisal." It states:

> *…The use of additional labels such as analysis, consultation, evaluation, study, or valuation does not exempt an appraiser from adherence to USPAP…*

As noted, terms such as "verbal approximation of value," "estimate of value," and "professional opinion of value" were an attempt to describe a type of service whereby it was mistakenly thought that an opinion of value could be rendered verbally or by means of a brief email without the need for compliance with USPAP. These were, in effect, attempts to circumvent the need to comply with USPAP by some of those personal property appraisers who were being required by their societies to perform appraisal practice in compliance with USPAP.

There are no recognized definitions for VAVs, EOVs or POVs, though they are normally described by their advocates in a disclosure similar to:

> *[VAVs, EOVs, POVs] are not professional appraisals. Where a formal appraisal is not needed, a less formal appraisal may be appropriate. This procedure does not follow the generally accepted appraisal standards, so these are not called "appraisals." These are good for those wanting a rough idea of value, but do not want to pay for an appraisal. [VAVs, EOVs, POVs] are not to be used for legal matters, but can be helpful for less formal uses such as acquiring insurance."*

Wrong. The problem with such a disclosure is that it is in conflict with USPAP on several fronts. Suffice it to say that when the service being provided includes development of an opinion of value, then the service being provided actually **is** an appraisal and appraisers performing such

[330] By the way, USPAP's RECORD KEEPING RULE also requires that there be workfile support sufficient for the appraiser to produce an **Appraisal Report from a Restricted Appraisal Report** as well to produce an **Appraisal Review Report from an oral appraisal review report**.

services **are** subject to USPAP compliance—particularly if they are required to be USPAP compliant by a societal mandate.[331]

So, VAVs, EOVs and POVs are, in fact, what USPAP refers to as **appraisals**. As such, they must be developed and reported in compliance with USPAP. As noted above, USPAP compliance **requires** that regardless of the limiting assignment conditions imposed on the appraiser and regardless of whether the assignment results are reported briefly by email or orally, certain steps must be taken to develop a credible opinion of value, certain information must be reported to the client, and certain records must be retained in the assignment workfile.

What does all this mean? It means that regardless of the term used by the appraiser, when developing an opinion of value (or when performing an appraisal review) and when communicating resulting opinions or conclusions either in writing or orally, the appraiser is still bound to comply with USPAP. There is no need to use substitute terms for those concepts already defined by USPAP. Straying from the commonly-accepted definitions and guidance of USPAP is not only cause for confusion among practitioners and users of appraisals but could also lead to charges of failure to perform in conformance with generally accepted professional appraisal standards.

Accordingly, the use of such terms as "verbal approximation of value," "estimate of value," and "professional opinion of value" should be discontinued. Instead, make use of the well-defined and universally-supported term "appraisal" and comply with the USPAP appraisal development and reporting requirements applicable to appraisal assignments. We'll discuss these appraisal development and reporting requirements later in this book.

Oral Appraisals: A Challenge to be USPAP Compliant?

While oral appraisal reports are routinely performed in compliance with USPAP (such as for court testimony or at deposition, or for attorneys when a written assignment report is not needed), on occasion the personal property appraiser encounters scenarios in which orally reporting assignment results that are in compliance with USPAP is more challenging, though still possible. Such scenarios include:

- Conducting so-called "walk-throughs." Some make use of the term "walk-throughs" when referring to on-site personal property oral appraisals. Regardless of the term used to describe these assignments, they are, in fact, appraisals. As such, when performing "walk-throughs," appraisers are required to comply with the relevant sections of USPAP including, but not limited to, USPAP SR 8-4 *Oral Appraisal Report* and the RECORD KEEPING RULE.[332]

- "Appraisal Day"-type events, and

[331]In the interest of maintaining and preserving the public's trust in appraising, even though an appraiser is not a member of an appraisal society that requires USPAP compliance and is not compelled to do so otherwise (such as by law, regulation or agreement), the appraiser **should** comply with USPAP, nonetheless. (See USPAP's PREAMBLE and ETHICS RULE.)

[332] See the Chapter 2 section entitled *Walk-Throughs.*

- Television shows which feature individuals offering opinions of value such as antique appraisal shows or pawn shop shows[333]

Then there are the television shows where opinions of value are stated or implied, but these are not appraisals being offered by appraisers; rather they are merely buyers trying to get a bargain or trying to justify the amount they just paid for an item. Examples include:

- Televisions shows featuring "pickers" who make offers to buy items they intend to resell later for a profit.

- Television shows featuring the auction sale of storage units in which the purchaser gives his opinion of the value of the items just purchased, or some antiques dealer offers an opinion of what he thinks he could sell the item for.

These examples of oral appraisal reports are typically done without proper USPAP-compliant appraisal development and reporting procedures or proper record keeping—all of which are hallmarks of a bona fide appraisal. In order to be USPAP compliant the appraiser must maintain an assignment workfile and include in the workfile a written summary of the oral appraisal report as well as a signed USPAP certification. So, with little effort, for those desiring to comply with USPAP (and not all do!), oral appraisal reports **can** be made USPAP compliant to the benefit of the client, appraiser, the appraisal profession at large, and to the viewing public.

In order to document an oral appraisal so that the assignment is in compliance with USPAP, make use of a form similar to the one found in Appendix AA *Agreement for an Oral Opinion of Value (Oral Report Summary)* which has been prepared with the assistance of Bill Novotny, ISA AM (novotnyappraisal.com). In order to properly comply with the requirements of USPAP as they pertain to oral appraisal reports, retain this form (which serves the dual purpose of being a written summary as well as a signed USPAP certification) in the assignment workfile. In addition, develop a data collection system (written? audio/video recordings?) whereby at some point in the future (and as required by USPAP's RECORD KEEPING RULE) you will be able to produce a written Appraisal Report from the contents of the oral appraisal report workfile, if need be.

Caution: Oral Appraisal Report Imposters

Often values obtained from auction houses, jewelry stores, pawn shops or antique shops are considered by the public to be oral appraisal reports, but they are not.

Pre-sale auction house estimates are not appraisals at all, but rather are the auctioneer's best guess based on past experiences of what an item might sell for at an upcoming auction. These auction estimates may intentionally be made artificially low in order to entice buyers to attend the auction, or they might be set artificially high in an attempt to encourage a consignment.

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[333] It often appears that during these TV shows the appraiser is providing an unconsidered opinion of value; however, often the appraiser has inspected the item and researched its value prior to the taping of the show, and is maintaining a proper oral appraisal report workfile. As a result, it is very likely that the appraiser is rendering a USPAP-compliant appraisal and appraisal report, even if it does not appear that way during the airing of the show. (2020-2021 USPAP FAQ #6). See USPAP AO-21 *USPAP Compliance* for related information.

In a similar fashion, jewelry store or antique shop "complimentary verbal appraisals" and pawn shop "offers to buy" are not appraisals either. Such opinions are self-serving and should be construed only as an opinion of a price representing the amount for which the store owner feels the item would sell in his shop at retail. Optionally, the complimentary verbal "appraisal" may simply reflect an amount the store owner is willing to pay in order to purchase the item to add to the store inventory. In neither case is there a correlation with the "complimentary verbal appraisal" or the "offer to buy" and actual value. In other words, in neither case is a bona fide appraisal being provided.[334]

Using Photographs to Appraise When a Hands-On Inspection is Not Possible

This discussion relates to the section in Chapter 3 entitled *Inspection vs. Non-Inspection* in which we focused on the underlying need for the appraiser to satisfy the USPAP SR 7-2(e)(i) requirement that he or she identify sufficient property characteristics to "…*establish the identity of the item including the method of identification."* The appraiser is further required to identify sufficient characteristics to establish the quality as well as the physical and economic characteristics of the property which have a material effect on the item's value, i.e., what USPAP refers to as the property's **relevant** characteristics**.**

While these requirements are most often satisfied through a personal, hands-on inspection of the property by the appraiser, such a method of identification is not always possible, feasible, or cost-effective. USPAP does not stipulate how or by whom the subject property is to be inspected. Instead, USPAP places the focus on "identifying" the subject property and its relevant characteristics.

Using client- or third-party-provided information without the benefit of a physical examination of the subject property is a common practice among personal property appraisers. This practice has now been expanded to the realm of online appraisals via digital images and the use of the Internet.[335]

The alternative to a personal inspection of property by an appraiser is to instead have the client (or some other third-party such as another appraiser, a repair company or a subject-matter expert) provide the appraiser with images of the property along with other property-identifying information such as written descriptions. While there can never be a substitute for a hands-on inspection, traditional appraisers have often successfully made use of client- or third-party-provided information as an alternative technique for satisfying the USPAP requirements that the property and its relevant characteristics be **identified**.

The use of photographs without also having conducted a personal inspection is, of itself, a limiting condition that must be disclosed in the appraisal report (including within the USPAP certification). The limiting condition of using photographs vs. a personal inspection gives rise to extraordinary assumptions which themselves must also be disclosed. Extraordinary assumptions might be required to address issues such as the following:

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[334] See the Chapter 7 section entitled *When Must an Appraiser Comply with USPAP?* as well as the Chapter 8 section entitled *Unconsidered Opinions of Value* for related discussions.
[335] See the following section entitled *Online Appraisals.*

- Assumed existence
- Assumed identity of the property and its relevant characteristics
- Assumed ownership
- Assumed condition
- Assumed authenticity
- Assumed age
- Assumed materials
- Assumed quantity
- Assumed quality or grade of the property

It is incumbent upon the appraiser to support value opinions regarding items being appraised only by means of photographic prints or digital images with documentation supporting any assumptions which formed the basis for those determinations.

Caution. For items still available for a personal inspection, photographs cannot be the basis for valuation if issues such as authenticity, identity, condition or age are in question to the degree that extraordinary assumptions about those issues will not suffice. In such cases, a personal inspection simply must be undertaken. Often, however, when using photographs that are coupled with client- or third-party-provided descriptive information, such issues as the above can be answered to the extent that the appraiser feels comfortable in making extraordinary assumptions based on that provided information.

But if the appraiser has a reason to feel that the information being provided is not true or is otherwise unreliable, then extraordinary assumptions cannot reliably be made. The appraiser must then either insist on conducting a hands-on inspection (if the items are available for inspection), or the appraiser must decline such assignments in which critical issues such as to identity, authenticity, age or condition remain unanswered and cannot be "assumed away" merely by means of making extraordinary assumptions.

For several reasons, appraisers must be particularly alert when conducting any appraisals based on non-verifiable client- or third-party-provided descriptions and images:

- There is no assurance that the property even exists (perhaps the digital image was scanned from a magazine).

- There is no assurance as to who owns the property pictured.

- The photo shown may actually be an image of a property currently being offered for sale by another person on a popular Internet auction site.

Reporting Obligations when no Personal Inspection was Conducted[336]

When using photographs in lieu of a personal inspection, the relevant section of the appraisal's USPAP certification must be properly modified to reflect that the property was not personally inspected by the appraiser. In addition, the report's scope of work should reflect that the property was not inspected, the reason for the non-inspection, and what impact, if any, the lack of a personal inspection has on the appraiser's value conclusions:

[336] See the Chapter 3 section entitled *Inspection vs. Non-Inspection* as well as the Chapter 12 section entitled *Making Use of Photographs* for related discussions.

- The relevant section of the USPAP certification would be written as follows when property was not personally inspected by the appraiser:

  > *I **have not** made a personal inspection of the property that is the subject of this report.*

- Additionally, the report's scope of work would be altered to reflect that the appraiser did not personally inspect the property. The scope of work would also include an explanation of why the property was not inspected, a description of the extraordinary assumptions that therefore had to be made by the appraiser, and a disclosure that those assumptions could have affected the assignment results. As an example:

  > *I did not personally inspect the property which is the subject of this report since the subject property had been destroyed by fire. Value conclusions were based on client-provided photographs and written descriptions. The limiting condition of being unable to personally inspect the property caused me to make the extraordinary assumptions that the property existed, and that it was in the condition as indicated to me by the client and that is reflected elsewhere within this appraisal report. Should certain views of the subject property not have been visible in the client-provided photographs, I made the assumption that there existed no significant condition problems in those unseen areas unless otherwise commented on by the client in the descriptions he provided. I also made the assumption that the descriptive information provided by the client was credible and reliable. Due to my familiarity with the type of property being appraised, I consider an appraisal based on the use of client-provided photographs and descriptions as adequate for me to arrive at a credible opinion of value. Assignment results might have been affected by the use of these extraordinary assumptions.*

Online Appraisals

The advent of Internet technology and digital photography has caused a growth in online appraisals. The Internet has ushered in a new paradigm into what has heretofore been a fairly static and traditional methodology of providing personal property appraisal services.[337]

Online Internet appraisals are defined as electronically-transmitted personal property appraisal reports based on client- or third-party-provided digital images and written property descriptions transmitted electronically to the appraiser. Typically, the information provided to the appraiser and on which the appraiser bases his or her opinions has not been personally verified by the appraiser since the appraiser does not perform a personal, hands-on inspection.

Online appraisals of personal property are a meld of traditional concepts with cutting edge technology to provide bona fide value conclusions under certain circumstances. Online appraisals do not make use of a personal, hands-on inspection by the appraiser, rather, the identification of relevant property characteristics necessary to adequately identify the subject property is normally obtained by use of client-provided information transmitted electronically to the appraiser via the

[337] Refer to the above section entitled *Using Photographs to Appraise When a Hands-On Inspection is Not Possible* for issues of concern when appraising from photographs.

Internet. On occasion, the necessary identifying information is provided by assisting colleagues who inspect the property on behalf of the signing appraiser.

For a limited number of intended uses but for most types of property, online appraisals have proven quite successful and appropriate. However, for some intended uses and for certain types of property the traditional appraisal approach which includes a personal inspection of the subject property by a qualified appraiser remains the only worthwhile method of determining and supporting a credible opinion of value.

Benefits accompany this new paradigm in personal property appraising—benefits for both the client as well as the appraiser. Benefits to the client include timely and convenient appraisals regardless of locale normally for a fraction of the cost of using a local traditional appraiser (assuming one can be found). Benefits for the appraiser include low overhead and access to a client base that extends well beyond the appraiser's locale.

But there are limitations as well.

As with any appraisal that makes use of photographs or digital images and other such non-verifiable, client- or third-party-provided information, online appraisals by definition are based on limiting conditions and extraordinary assumptions made by the appraiser. The limiting condition is that the property is not personally inspected by the appraiser. One extraordinary assumption for the online appraiser, although fairly basic, is that the item does, indeed, exist. Another assumption might be that the item is in the condition as described by the client or third-party. Yet another is that the property has the identity and relevant property characteristics as described.

Appraisal reports (whether **online** or **traditional**) must disclose any limiting conditions and extraordinary assumptions on which value conclusions are based. In addition, reports must warn that extraordinary assumptions could affect the assignment results. As with any appraisal assignment that makes use of client- or third-party-provided photographs and property descriptive information, the accuracy of that information is of paramount concern. Steps must be taken to ensure that the information provided to the appraiser is as complete and accurate as possible. This often entails a back-and-forth dialog between the appraiser and the client in order to ensure that sufficient information (perhaps including additional descriptive details as well as additional and more detailed images) is obtained by the appraiser so that he or she is able to develop credible opinions, analyses or conclusions.

Note that property that is unavailable for inspection (such as that stolen or destroyed by fire) can be appraised equally as well by either the traditional or the online Internet appraiser. Since conducting a hands-on inspection is virtually impossible in such cases, it makes no difference if the appraiser is a traditional or online Internet appraiser. Both face the same limiting conditions and both must make the same extraordinary assumptions.

Property that **is** still available for inspection is a candidate for being appraised online with the appraiser’s opinions of value being credible only if:

- The **type of property** qualifies for being appraised without a personal inspection by the appraiser. See below.

- The **intended use** of the appraisal report permits an appraisal being done without a personal inspection by the appraiser. See below.

Qualifying Property for an Online Appraisal

While virtually any type of personal property can be appraised by the **traditional** appraiser who is properly qualified and trained and who has the ability to personally inspect the item, many but not all extant items **qualify** for being appraised by the use of photographs or online, i.e., without the benefit of a personal inspection by the appraiser.

Some types of property such as those listed below simply should not be appraised without a personal inspection **unless** the subject property is no longer available for inspection such as might be the case if the property has been stolen or destroyed by fire.

Assuming the property still exists and is available for inspection, clients with **non-qualifying** items seeking an online appraisal or an appraisal performed by an appraiser using only photographs should be referred to a traditional appraiser who can, instead, physically examine the property. Examples of extant **non-qualifying** items that should otherwise not be appraised online or by photographs include:

- Items requiring testing or certification to prove identity or authenticity. Examples include diamonds or colored gemstones that require testing, or paintings that need testing in order to be authenticated.

- Items in which questions as to condition, identity or age exist that cannot be resolved to the appraiser's satisfaction even with the use of extraordinary assumptions.

- Items which are potentially so valuable as to warrant, in the appraiser's professional opinion, a physical inspection by a qualified appraiser. To do otherwise for very valuable items may cause a perceived loss of credibility in the appraiser's value conclusions despite the accuracy of those value conclusions. Such an appraisal could be detrimental to the client's best interests.

As noted, an exception to the above would be appraisals done for items which have been lost, destroyed or stolen and are no longer available for inspection, in which case the limiting conditions and resulting extraordinary assumptions faced by the online appraiser or the appraiser using photographs would be no different than those faced by the traditional appraiser. Accordingly, items no longer available for inspection can be appraised equally as well by either.

Intended Uses for the Online Appraisal

Online appraisals as well as any appraisals making use of photographs can be an appropriate method for determining value of qualifying items for the below listed intended uses. This list also contains those intended uses for which appraisals have historically been done by the traditional appraiser making use of client- or third-party-provided photographs and descriptions.

Note that these online appraisals are normally intended to be used by the client only and not by others—such as clients who "just want to know" the value of an antique or collectible. But lately, online appraisals have been becoming more acceptable for certain intended uses involving intended users other than the client such as for some insurance and damage claims purposes. Indeed, any assignment in which the appraiser can develop credible opinions of value and which also satisfy the needs of the client and other intended users (if any) would qualify for being appraised online. The utility of online appraisal reports should be discussed with the client and

any other intended users (such as claims adjusters, insurance agents, attorneys, etc.) to ensure that their needs are being satisfied by means of the use of an online appraisal.

Acceptable intended uses for online Internet appraisals include:

- Clients wishing to obtain appraisals in order to have confidence when buying or selling property, i.e., a sales advisory appraisal.

- Owners wishing to equitably divide property among heirs.

- Certain transit-related damage claims or insurance casualty loss claims in which the client and other intended users such as the claims adjuster agree to use the results of an online Internet appraisal.

- Litigation, damage claims or casualty claims **where the property is no longer available for inspection**. When the property is not available for inspection (as would be the case if there had been a theft or a casualty loss such as a fire or flood) there is no difference between the process followed by the **traditional, land-based** appraiser (who makes use of photographs and verbal and written descriptions obtained from the client) and that followed by the **online, virtual** appraiser (who follows the same process, only making use of only images that are provided digitally).

  Such would also be the case for any other intended use for which photographs have traditionally been an accepted method of developing an opinion of value. In such scenarios, all appraisal intended uses that have long been valid for the traditional appraisal continue to be valid uses for the Internet online appraisal as well.

- Any intended use for which credible opinions of value can be developed by the appraiser and for which the needs of the client and other intended users (if any) can be met. Communicate with the client and other intended users to ensure that their needs can be met with an online appraisal.

Disclosures When Making Use of the Online Appraisal

Online appraisals are made without the benefit of a personal, hands-on inspection of the property by the appraiser. Instead, the appraiser makes use of digital images and property descriptions provided by the client or by third-parties. Online appraisals require:

- A disclosure in the USPAP certification that the property was not personally inspected by the appraiser. As an example:

  I have not made a personal inspection of the property that is the subject of this report.

- A clear and conspicuous disclosure of any extraordinary assumptions that were necessitated because the property was not personally inspected as well as a statement that the use of extraordinary assumptions might have affected the assignment results.[338]

Below are two typical scenarios in which online Internet appraisals are commonly used. One is for an appraisal making use of the Restricted Appraisal Report option. The second is an appraisal making use of the Appraisal Report option. Each is accompanied with an example of a possible appraiser's disclosure statement. The statements are very similar—varying only in the method by which they address the specific scenario's assignment conditions.[339]

- **Scenario 1**: **Restricted Appraisal Report option** for use only by the client and named intended users, if any. For personal reasons, the client needs an appraisal of property that is in his possession. Perhaps the client wants to sell the property to a private party, or maybe the client wants to determine property values in order to make an equitable distribution among heirs. The client might instruct the appraiser to limit the amount of work the appraiser is to do. For example, the client might instruct the appraiser to forgo detailed descriptions or authentication processes as the client is already aware of that information and only needs the appraiser to develop an opinion of market value. The client feels that limiting work performed by the appraiser is warranted and will save time and expense.

  > *This appraisal was conducted making use of digital images and written property descriptions provided by the client. I did not make a personal inspection of the property that is the subject of this report. Should certain views of the subject property not be visible in the client-provided photographs, I made the assumption that there existed no significant condition problems in those unseen areas unless otherwise commented on by the client in the descriptions he provided. I have also made the assumption that the descriptive information provided by the client was accurate. Due to this assignment's restricted use nature and associated limited work that I performed (including the client's concurrence that a personal inspection was not required) and due to my familiarity with the type of item being appraised, I consider an appraisal based on the use of client-provided images and descriptions of the property as adequate for me to develop a credible opinion of market value. Extraordinary assumptions made might have affected the assignment results.*

- **Scenario 2**: **Appraisal Report option** for an item that has been damaged or lost. The client requires a replacement value appraisal for claims settlement purposes. The insurance or moving company claims adjuster agrees to accept an online appraisal report as proof of worth.

  > *This appraisal was conducted making use of digital images and written descriptions provided by the client. I did not make a personal inspection of the **[damaged, lost]** property that is the subject of this report. The*

[338] As per USPAP Standards Rules 8-2(a)(xi) and 8-2(b)(xi).

[339] The below scenarios make reference to "Restricted Appraisal Report" and "Appraisal Report" format options. The use of one of these two report options is mandated by USPAP. Both report options are discussed later in detail in Chapters 7 and 11 of this book.

> *client stated that his insurance company will accept a replacement value appraisal (one which is without a personal inspection by the appraiser and which is based only on client-provided digital photographs and written descriptions of the property) as proof of worth for the items listed herein for assisting in the insurance claims process. Should certain views of the subject property not be visible in the client-provided photographs, I made the assumption that there existed no significant condition problems in those unseen areas unless otherwise commented on by the client in the descriptions he provided. I have also made the assumption that the descriptive information provided by the client was accurate. Due to my familiarity with the type of property being appraised, I consider an appraisal based on the use of client-provided images and descriptions as adequate for me to arrive at a credible opinion of value. Extraordinary assumptions made might have affected the assignment results.*

Valuation Discounts

Valuation discounts are often employed by business valuators, estate planners, financial advisors and estate attorneys as a strategy aimed at **reducing federal estate taxes** due upon death. The technique applies most often to business valuations and to the reduction of estate taxes on family-owned businesses being passed on to the next generation. It is a complex subject and beyond the scope of this book other than to briefly make mention of three valuation discounts associated with personal property, specifically, with high-value works of art owned by the decedent's estate.

After Death Discounts

The IRS will often accept the actual selling price of property in the decedent's estate as the best evidence of its fair market value and, as such, as an appropriate basis on which to levy federal estate taxes.[340]

But what if the property being sold appreciates in value between the date of death and the eventual sale of the property? In **Estate of Robert C. Scull v. Commissioner** (1994), the executors sold works of art owned by the estate through public auction over ten months following the date of death. During that ten-month period, it was shown by the estate that the works of art had appreciated in value. Consequently, the works of art sold at public auction for significantly more than they would have had they instead been sold on the date of death (the normal effective date of valuation for estate tax purposes). The Tax Court agreed and allowed a 15% discount to the sales results in order to compensate for "after death appreciation."[341]

Fractional Interest Discounts (a.k.a. Minority Interest Discounts)

Based on a decision by the U.S. District Court for the Northern District of California in **Robert Grove Stone v. United States** (May 25, 2007), discounts for fractional interests in personal property may be quite limited.[342]

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[340] See the Chapter 4 section entitled *Determining Fair Market Value.*
[341] See the Chapter 13 section entitled *Tax Court Case: After Death Discount* for a discussion of this case.
[342] See the section entitled *Property Interests* in Chapter 3 for a related further discussion.

In **Stone**, the estate owned one-half interest in nineteen paintings, i.e., the estate owned a 50% fractional interest in the works of art. Both the estate and the IRS agreed that the aggregate fair market value for all nineteen paintings was $5M. The IRS argued that the estate tax should be levied on one-half of that amount (i.e., on $2.5M) because of the estate's one-half ownership interest in the paintings. But the estate countered that the $2.5M should be lowered by 44% due to the application of a **fractional interest discount**. Specifically, the estate argued that because of the **lack of control** over decisions concerning the artwork (brought about by the estate owning only a fractional interest and not the entirety), it would have difficulty in selling its own 50% fractional ownership interest in a piece of the art without offering a steep discount to encourage a sale. Because "control" and "marketability" was lacking from the half-interest involved, the estate contented that a prospective buyer would pay substantially less than the value of the half-interest in the art due to these deficiencies.

In support of their argument for a 44% fractional interest discount, the estate presented evidence that for real property, fractional interests sell at a 44% discount in value when control and marketability are lacking; therefore, by analogy, the estate argued that a fractional interest in art would sell at a 44% discount as well. The federal district court in California rejected the analogy to real property, agreeing with the IRS's experts that the art and real estate markets are not comparable. Specifically, while evidence existed supporting the 44% discount for the sale of real property fractional interests, no such evidence was presented which suggested that fractional interests in art sold at a discount in the marketplace. The court concluded that no owner of a 50% interest in a piece of art would willingly sell his interest for 44% less than its full value. In reaching this conclusion, the court noted that a seller of a fractional interest in a work of art would accept no less than would be received should a court require the asset to be liquidated and the proceeds split according to ownership interests involved. The court acknowledged that associated with such a "partition action" there would be various costs. It is these costs, then, that the court decided should form the basis for a fractional interest discount.

Accordingly, in **Stone** the court determined that the estate was entitled to a 2% discount for the hypothetical costs of selling the art at auction, a $50,000 discount attributable to legal fees for a hypothetical partition action, and some level of discount *"to allow for the uncertainties involved in waiting to sell the collection until after a hypothetical partition action is resolved."* The total fractional interest discount allowed was set at 5%.

The **Stone** case provides some important guidance for taxpayers. The court rejected the IRS's argument that fractional interest discounts apply only to real estate, and it provided a roadmap for determining an appropriate fractional interest discount for artwork. Fractional interest discounts for artwork may reflect:

- The sales commission incurred when selling the art at auction
- Legal fees incurred in pursuing a hypothetical partition action, and
- A discount for the uncertainties involved in waiting for the partition action to be resolved.

Had the estate presented a more persuasive methodology for determining the discount attributable to the uncertainty of a partition action, the court might have awarded a discount greater than 5%. For instance, in addition to the arguments for lack of "control and marketability," additional arguments could have been put forth such as the challenges of obtaining a consensus for action from among a group of co-owners, of the challenges a would-be purchaser would face when

having to associate with a block of family members, of the difficulties associated with transferring a partial interest in an undividable property, and of the nearly non-existent market for partial interests in property. The court even indicated that it would have been receptive to any evidence that fractional interests in artwork have actually sold at a discount in the marketplace.

Blockage Discounts

Blockage[343] is defined as a form of depreciation resulting when a **relatively large number** (i.e., a large **block**) of **similar** properties are offered for sale at one time. In such a scenario, the number of similar items being offered is too large for the normal market to absorb it all as of a specific date. Supply exceeds demand. As a result, prices are depressed.

Blockage has its roots in the valuation of stocks and securities for estate taxation purposes; however, the concept can be applied to any type of fungible property of which a large number are placed on the market at the same time. When offering a large number of similar items for sale, in order to induce a quick sale of the block of items it would be necessary to offer a significant discount. In other words, in order to sell all the units as one "block," the seller would have to be willing to accept a price that is lower than the aggregate value the units would have had if they had been sold separately over a long span of time.

Estate executors and lawyers use the blockage principle with some frequency to reduce the amount of estate tax payable to the Internal Revenue Service, arguing that the fair market value (on which estate taxes are levied) of a large number of similar items should be reduced because if all were offered for sale on the decedent's date of death the market would be markedly depressed. The technique is particularly useful with artist's estates comprised of large numbers of unsold works by an individual artist. The two most notable art-related applications of the principle involved the estates of sculptor David Smith [**Estate of David Smith v. Commissioner** (1975)] and painter Georgia O'Keeffe [**Estate of Georgia T. O'Keeffe v. Commissioner** (1992)].[344]

The importance of **Smith** is that the Tax Court gave official approval to the acceptance of making use of the concept of blockage when valuing art for estate tax purposes, but it provided no guidance on how to determine the discount. In **Smith,** the final Tax Court-imposed blockage discount hinged on something less than clearly articulated valuation methodologies. The judge presiding over the **Smith** case fell back on a "Solomon-like" pronouncement to establish the discount by splitting the difference!

But, unlike **Smith**, in **O'Keeffe** the Tax Court sets forth a rational, mechanical way to compute the discount. In **O'Keeffe**, the Tax Court recognized that it **would be unreasonable and unadvisable** for the estate to dump a large number of similar items on the market on the valuation date. To do so would invite a depression in values from which recovery could take years. Instead, a more advisable approach would be to stagger the sale of properties over a long period of time (perhaps years) in order to maximize sales prices.

If its use is deemed warranted, the blockage discount would be applied **after** the fair market values for all the individual items is calculated. From **O'Keeffe** we learn that, in determining the

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[343] USPAP does not provide guidance on how to calculate an appropriate blockage discount. USPAP focuses on standards, not on appraisal methodology or how to perform calculations. (2020-2021 USPAP FAQ #204)

[344] See also the Chapter 13 section entitled *Tax Court Cases: Blockage Discount.*

amount of the blockage discount, the estate representative (probably with the assistance of an accountant and appraiser) must fully analyze:

- The state of the market including the level of demand
- The anticipated pool of potential buyers
- Anticipated absorption rate for each category of property (i.e., the better-quality items will sell for more in a shorter period of time than the less desirable items)
- The gross proceeds expected to be generated over time
- Carrying costs associated with the liquidation process including selling commissions, accounting and attorney fees

In addition, the property itself must also be analyzed including its:

- Condition
- Quality
- Desirability to the collector
- Homogeneity of the property, i.e., are all items identical or do they vary in relevant characteristics?
    - Is there a group of items that are in greater demand and that would sell immediately?
    - Is there another group (perhaps of lesser-quality) that would take a longer period of time to sell?

While there are no fixed formulas for determining the amount of the blockage discount, the U.S. Tax Court in **O'Keeffe** has shown favor to the application of the present worth formula to ascertain the present worth of the stream of income anticipated to be derived from selling the large number of items over a period of time. Such a method would maximize the potential return to the estate and, therefore, would represent the most reasonable method of liquidation—as opposed to calculating fair market value on a supposed sale of all the items on the singular date of valuation.

As an example, assume:

- That the fair market value of all the artist's own works of art that were in the artist's estate upon death (i.e., the effective date of the appraisal) had an aggregate fair market value of $54 million, and
- That it was determined that the most lucrative method of liquidating the items was through a series of sales over a period of several years, and

- That a present worth calculation of the anticipated stream of income expected to be achieved over that period of years results in a present worth of $36 million.

The allowed blockage discount would then be 33% ([$54M-$36M]/$54M). In other words, the estate, due to blockage, would likely be allowed to pay estate taxes on the $36M instead of on $54M. In this example, the blockage discount is allowed not because of a **perceived** discount in value due to all items being dumped on the market on the same date, but rather because of the **very real** application of a present worth calculation to the anticipated stream of future incomes.

Summary of Estate of Georgia T. O'Keeffe filed April 8, 1992

The Georgia O'Keeffe U.S. Tax Court Estate [**Estate of Georgia T. O'Keeffe v. Commissioner**] case makes interesting reading for the appraiser in that it exposes mistakes made not only by the expert appraiser for the Petitioner (the Estate), but also by expert appraiser for the Respondent (the IRS).

In summary, the O'Keeffe estate included approximately 400 works or groups of works of art that were individually valued at over $72 million (i.e., this amount is a summation as of her date of death of the fair market values for the individual works). It was argued by the Petitioner that the estate was entitled to a blockage discount to reflect the reduced fair market value of separate categories of the works that would occur if a substantial portion of those works was offered for sale all on the date of death—not over a period of years, but rather all sold on one day.

In rejecting the appraisals of the estate **and** of the government as unreliable, the Tax Court concluded that the works of art should be segmented by quality, uniqueness and salability into two groups. The first group would represent works that were salable within a short period at approximately their individual fair market value. The second group would represent works that could only be marketed over a long period of years.

The Court went on to suggest that a calculation of the present worth of the expected stream of income anticipated to result from a sale of works over a period of time would be a better indication of fair market value and, hence, of blockage. In conclusion, the Tax Court took both parties to task and ruled:

> *We cannot rely on the burden of proof in this case. There is evidence from which we can determine a value, although we are frustrated and imposed upon by the lack of reliable expert opinion supporting the discounts claimed by the opposing parties. We are persuaded that O'Keeffe's works in the estate on the date of her death should be segmented, not necessarily by value but by quality, uniqueness, and salability. There should be at least two categories, i.e., works that are salable within a relatively short period of time at approximately their individual values and works that can only be marketed over a long period of years with substantial effort. We believe that petitioner's experts' opinion is valid only as applied to the second category of works. Respondent's argument is meritorious with regard to the first category. For want of a more reliable breakdown, we conclude that one-half of the value of O'Keeffe's works in the estate would be appropriately subjected to petitioner's experts' analysis and should be discounted 75 percent. Using our best judgment on the entire record, we conclude that the other half of the total value of O'Keeffe's works should be discounted 25 percent. After considering the entire record, we conclude that the fair market value of O'Keeffe's works in the estate at the date of death was $36,400,000.*

Chapter 6: Appraisal Principles Part V

Valuation Principles

Appraising is not an exact science. There are no known tables, formulas, or mathematical calculations that will allow the appraiser to develop an indisputable opinion of value. The appraiser must instead base an opinion of value on data that reflects the ever-changing relationship between a property and how buyers and sellers view that property and the property's ability to satisfy the needs or wants of marketplace participants. In other words, the appraiser makes use of his or her product knowledge, appraisal experience and best judgment to develop an opinion of value based on actual market data.

The application of fundamental appraisal and valuation principles, techniques, methodology and standards enable the appraiser to develop a value opinion that is logical, credible and supportable in the context of intended use and value type and definition. We discuss theory, practices, techniques, methodology and standards throughout this book; however, below we focus on the basic valuation **principles** that are fundamental to our profession.

Principles are basic generalizations that are accepted as true and that can be used as a basis for reasoning or conduct, or to explain a particular process. Familiarity with the following valuation principles will help the appraiser understand the importance of factors affecting the market, the property and the desires of buyers and sellers as well.

Valuation principles can be divided into two categories—market-related and item-related:

- **Market-related**: This category consists of those principles that are **related to the market** including market forces impacting on value. Understanding these market-related principles will help you better understand the workings of the marketplace itself and the various influences that impact the decisions made by market participants.

- **Item-related**: This category includes those principles that are **item-related**. Being familiar with these item-related principles will help you better understand important issues that are related to properly identifying property and its relevant characteristics, i.e., those characteristics having an effect on value and marketability.

Valuation Principles Relating to the Market

The Market

As noted earlier, a market (a.k.a. "marketplace") is not a geographical place, rather it is a **concept** representing where buyers and sellers meet to exchange goods for money, or its equivalent. Selecting the most appropriate market to research is of paramount importance to every appraisal assignment. It is critical that the appraiser understands the market itself and not just focus merely on individual transactions that occur within the market. Comparable market data obtained from

the wrong market are useless, so it is important for the appraiser to understand the various **markets**, **levels of trade** and **market levels**.[345]

The Most Appropriate Market

The **most appropriate** market is a subset of the overall market. The most appropriate market to research is identified as such during the problem identification phase of the appraisal process. Identifying the problem entails, among other things, identifying the intended use of the appraisal, the assignment conditions, and the type and definition of value to be determined. These factors will, in turn, direct the appraiser to the most appropriate market in which to conduct research.

For example, an appraiser who is required to develop an opinion of value for the intended use of a client needing to sell property immediately will make use of "forced liquidation value" which, by definition, researches and analyzes the marketplace in which goods are sold within a very short period of time. In this scenario, such a marketplace would be best reflected by the wholesale or dealer market where property is purchased at deeply discounted prices or "by the lot" in order that it can be resold for a profit. Other examples include a distress auction, or the concluding hours of a yard sale at which point property is being sold at distress prices. Researching any of these possible "most appropriate markets" would generate market data which would enable the appraiser to develop a credible opinion of forced liquidation value.

On the other hand, researching retail gallery prices would **not** reflect the appropriate market from which to obtain the market data needed to develop an opinion of forced liquidation value. A retail gallery price would be an appropriate market to research if developing an opinion of **replacement value** for the intended use of acquiring insurance, but it is **not** the appropriate market to research when the purpose of the assignment is to develop an opinion of forced liquidation value.

The most appropriate market reflects the mandate of the principle of highest & best use[346] which recognizes that, unlike real property, personal property is portable, so has different markets and levels of trade (e.g., wholesale level, distributor level, retail level, forced or orderly liquidation). The most appropriate market would be the market[347] that would result in the highest price. Here are some examples of most appropriate market:

- The most appropriate market for the orderly sale of an old master's painting would be an international auction house and not a local auction.
- The most appropriate market for the orderly sale of vintage jewelry would be at an estate jewelry auction and not at a yard sale.
- The most appropriate market for the orderly sale of used clothing would be yard sales and thrift stores, but not regional auction houses.

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[345] See the Chapter 1 sections entitled *Market*, *Levels of Trade*, and *Market Levels* for additional related discussions.
[346] Highest and best use is that reasonable and legal use of a property that will result in its greatest value within a particular marketplace.
[347] The market is selected only after taking into consideration the intended use of the appraisal, the value type and definition to be used, and the conditions of the assignment (such as the above limited time scenario).

- The most appropriate market for the liquidation of large quantities of property would be at wholesale to a dealer and not to retail customers.

- The most appropriate market for the forced liquidation of an entire household of goods including an assortment of antiques would be at wholesale to a dealer who is intent of reselling.

USPAP requires that, **when necessary** in order to arrive at credible assignment results, the appraiser must analyze the property's current and alternative uses and must define and analyze the appropriate market that is appropriate for the type and definition of value being used. USPAP notes that in the case of personal property, "highest and best use" may equate to the choice of the appropriate market or market level. In other words, whichever market would yield the most lucrative return represents, in effect, the highest and best use of the subject property.[348]

Market Characteristics

Characteristics of markets cause them to differ from one another. Such marketplace vagaries might include:

- **Time available for advertising and otherwise preparing for sale**. Forced liquidation markets are characterized by limited time in which to advertise and sell while orderly liquidation markets have ample time.

- **Who has access to the market?** Some markets are open only to wholesaler buyers who purchase with the intent of reselling. Other markets are open to the retail customer who buys without the intent of reselling. Still other markets are open to both. Some markets are open to only select clientele such as to interior designers, while other markets are open to the general public.

- **Limited access to markets**. Some markets allow access only to a select clientele. Such markets would not be an appropriate marketplace to research if the appraiser's client does not also have access that particular market. An example is a designer showroom that sells at wholesale to interior designers who, in turn, resell at elevated prices to their clients. Such prices would not be applicable to a client seeking insurance coverage. Another example is the black market (i.e., the "discrete" market) to which clients do not legally have access.

- **The number of potential buyers**. Goods may bring less if offered for sale at a local auction having relatively few buyers, but might command a greater amount if offered for sale through an online Internet auction service where there are potentially millions of buyers.

- **Expectations of potential buyers and sellers**. Common goods would typically not be offered for sale in a marketplace in which uncommon goods are expected. For instance, used kitchen appliances are not offered for sale at auctions of fine art and antiques. Conversely, high-end antiques are not typically offered for sale at yard sales.

[348] The principle of highest and best use is discussed in more detail later in this chapter.

- **Location of the goods**. The basic appraisal premise of highest and best use states that in an ideal market goods are offered for sale within the market in which the probability of the highest sale price is the greatest. Along the same vein as the above "Expectations of potential buyers and sellers," objects offered for sale in other than the most lucrative markets can be expected to be sold for less than their highest possible price.

As noted, the **intended use of the appraisal report** will contribute to the appraiser's choice of market to explore, i.e., the most appropriate market. For example, as required by the IRS, noncash charitable contribution appraisals will require the use of the market in which sales **most commonly occur to the retail customer** whereas an appraisal for acquiring insurance coverage will make use of the market in which the insured customarily shops.

Failure to understand the market itself and the forces that affect it could lead the appraiser to erroneously conclude that a cookie jar is worth $13,000 simply because one just like it sold for that amount during the sale of the contents of a home once belonging to a famous and recently-deceased celebrity. In reality, the subject cookie jar is worth only $50.

Perfect vs. Imperfect Market

An understanding of the market requires that the appraiser recognize how an ideal (**perfect**) market differs from an actual (**imperfect**) market. Appraisers often encounter markets that are less than perfect—thus the need to know what makes the two market types different.

A **perfect** market is typically characterized by the following:

- There is a balanced market where demand always equals supply.
- There are large numbers of buyers and sellers in the marketplace.
- Items are identical, similar or interchangeable.
- Items are relatively inexpensive.
- Price competition is high, i.e., there are many sellers.
- Buyers and sellers are equally knowledgeable.
- The market is open and buyers and sellers are free to trade or to not trade.
- There are numerous sales that take place.
- Items are relatively small and are capable of easily being transported to their most lucrative market for sale.
- Transactions are at arm's-length, so the parties are not unduly influenced in either their actions or in the amount they are willing to pay or to accept.

The markets for such depreciable property as hand tools, clothing, and home electronics are typically close to perfect. As a result, prices are fairly stable and consistent across the country.

But markets are often imperfect. In an imperfect market, fluctuations in supply, demand, and price can be considerable and unpredictable. In addition, forces exist within an imperfect market that are not present in the perfect market. The market for such goods as fine art, antiques, collectibles and other appreciable personal property typically are traded in what is considered to be an imperfect market.

An **imperfect** market is characterized by the following:

- The market is imbalanced, i.e., demand and supply are seldom at equilibrium. For instance, with antiques and collectibles demand usually far exceeds supply.

- Relatively few buyers and sellers are in the marketplace. There are relatively few sellers (antique auctions, antique shops, antique shows) and relatively few buyers/collectors. Having said that, the advent of online auction sales has greatly increased the number of sellers and buyers for certain, but not all, property types. While relatively plentiful collectibles have proliferated, high-end property types continue to have few sellers and few buyers.

- Only the well-off can afford to buy higher-priced items.

- Items are seldom identical. Indeed, they are often unique. There are typically significant differences in the relevant characteristics of items that are not mass-produced.

- Items are often very expensive. This leads to a relatively small pool of potential buyers.

- There is often limited price competition, i.e., there are few sellers so monopolies are common. Many items of appreciable property are available only through a few select and specialist dealers—sometimes as few as one.

- Buyers and sellers may not be equally knowledgeable. All collectors are not always knowledgeable about the items they buy, while most often the dealer is knowledgeable. Online Internet auctions have magnified this issue manifold.

- The market is not truly open, i.e., not all persons have access to all markets. Not all buyers can access businesses which sell to the trade only or only to select clientele.

- Relatively few sales take place. Relative to depreciable items, there are extremely few items of appreciable property being sold.

- At times, items are large and difficult to use or transport. Six-foot-tall Oriental porcelain palace jars, player pianos, furniture exceeding eight feet in height, and Oriental rugs in excess of ten feet long are difficult to transport or simply do not fit in today’s smaller homes.

- It is seldom possible to determine whether or not transactions in an imperfect market (where transactions are often private) are conducted at arm’s-length without undue influence.

Principle of Supply and Demand

The principle of supply and demand is all-pervasive and governs all market transactions. The principle relates the supply available for purchase at a particular price to the consumer demand for that product at that price. Specifically, the principle (or "law") of supply and demand states that when a market is not in equilibrium it will move towards equilibrium. As price gets higher, people are willing to buy less. As price becomes less, consumers are apt to purchase more. When supply and demand are at equilibrium, i.e., when supply equals demand, price remains steady and the market is said to be in **balance** or at **equilibrium**.

Because of a limited supply, the value of antiques, collectibles and other appreciable property increases as more and more people compete for a dwindling supply. An increase in the collector base (i.e., more and more collectors) coupled with a fixed number of items available for sale is responsible for appreciable property increasing in value.

Principle of Anticipation

Value is proportional to the anticipated future benefit the owner (or prospective purchaser) expects to receive as a result of owning the property. Such benefits are often intangible. An article of property that is needed to complete one's collection will be extremely valuable to **that** collector. The anticipated future benefit of completing the collection is of considerable importance to that person, but not to others who do not share the collector's enthusiasm for that particular type of property.

An antique has value proportionate to the enjoyment or other benefits anticipated by the owner to accrue by virtue of merely owning the antique. For example, most high-quality antique furniture commands a premium price that reflects the buyer's desire to enjoy whatever future social, physical, or hoped-for monetary benefits that property and its future use might be expected to produce.

The Principal of Anticipation is fundamental to the income approach to value which anticipates the future benefits the owner (or prospective purchaser) expect to receive in the form of income as a result of owning a particular property.

Principle of Substitution

A property's value is typically based on the value of an equally desirable substitute property. In other words, people tend to pay no more for a property than they would pay to acquire a substitute property of equivalent utility, assuming there are no costly delays. The principle of substitution also recognizes that the substitute property with the lowest price will attract the greatest demand and widest distribution in the market.[349] The principle of substitution is fundamental to all approaches to value and, thus, should be the basis for every appraiser's thought process:

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[349] This assumes that either of the two properties under consideration would suit the buyer's needs, so the properties are for all practical purposes identical. A collector of art glass vases will not pay more for a vase off the Internet than the lowest price at which such vases are available at local antique shops and shows.

- The cost approach to value is influenced by this principle in that a buyer will not pay more for a property than the cost of acquiring a new property of like utility.

- The sales comparison approach to value relates because people will most often purchase the item with the lowest price, assuming the item is comparable and offers similar utility.

- The income approach to value is affected by the principle because if two investment properties reflect similar risk and return, an investor would opt to purchase the property that cost less.

Principle of Regression

A valuable item of property will suffer a loss-of-value when placed in a sale venue along with less valuable properties. High quality estate jewelry sold along with cheap costume jewelry in a yard sale will suffer in value. To maximize revenue, the high-quality estate jewelry should be sold through other avenues such as on consignment with auction houses or dealers who specialize in selling estate jewelry. (See "*Principle of Conformity"* below.)

Principle of Progression

Conversely, low value articles of property will tend to gain value if sold along with high valued property. Normally low-valued reproduction prints will sell for higher prices if placed with high-priced period American art and antiques. (See "*Principle of Conformity"* below.)

Principle of Conformity

A reasonable degree of conformity results in maximum value. Property with relevant characteristics that are in demand by the market will have the most value, i.e., the property conforms to what the typical buyer within that market is seeking. Used household goods are not offered for sale at a high-end antique show. Such objects simply do not conform to what buyers at the show are seeking. On the other hand, if offered at a yard sale, the household goods would bring a fair price since the goods conform to what buyers shopping within that particular market are looking for. Conformity works with the above-mentioned Principles of Progression and Regression.

Principal of Competition

The ability to earn a profit results in increased competition as additional players enter the market to take advantage of anticipated profits. This can ruin a market. The high profits perceived to be available through online Internet sales have resulted in a glut of merchandise (i.e., increased competition) in many categories of property including antiques and collectibles. This excess in supply quickly satiated the initial demand and resulted in a surplus of goods being offered. The increased competition resulted in a lowering of prices and in markets that may be depressed for years.

Principle of Decreasing Returns

There is a point beyond which added efforts/expenditures will not produce a commensurate increase in the value of the subject property. When additional expenditures do not increase the

property's value by at least the amount of those expenditures, the point of decreasing returns has been reached.

Consider a damaged Depression era dining table having a replacement value of $450. A moving claims adjuster might authorize up to $450 in repairs, but will normally not authorize more than that since it is at that point of decreasing returns where the cost of repairs would then exceed the value of the table. Instead of authorizing excessive repairs, the adjuster will simply cash the table out for $450.

Principle of Marginal Utility

Marginal utility refers to the additional satisfaction a consumer derives from the consumption of one additional unit of a product. According to the principle of marginal utility, an individual's demand for a product is determined not by the **total utility** of all of it he or she owns, but rather by its **marginal utility**, i.e., the additional increment of utility resulting from the purchase of one more of the same. The greater the supply of a product one owns, the smaller its marginal utility to that person. The smaller the marginal utility of an item, the less it is valued by that person. On the other hand, the greater the marginal utility, the greater it is valued.

Marginal utility is subjective because it depends on each person's wants and tastes. The same object may have different marginal utilities for different people. For example, the marginal utility of an additional slice of bread to a starving person having only a few slices left will be great, but the marginal utility of an extra slice of bread to a well-fed person having many slices will be small. A collector will pay a lot for items needed to complete his or her collection; however, once the collection has been completed, the collector is likely to pay considerably less for duplicates of pieces he or she already owns. The larger the amount of a thing that a person has the less (all else being equal) that person will pay for a little more of it.

Principle of Highest and Best Use

The highest and best use of a property is that reasonable and legal use of a property that will result in its greatest value within a particular marketplace. The principle of highest and best use recognizes the need to consider the item's **ultimate use** as well as the **most appropriate marketplace** which, when taken together, results in the highest value for the property under consideration.

- **The Concept Derived from Real Property**

  The highest and best use of a property, more than anything else, is what determines its value. The concept of "highest and best use" as applied to personal property has evolved from real property appraisal theory. The concept is one of the most important yet least understood principles in appraising.

  "Highest and best use" is a commonly-used phrase in the appraisal of **real** property where the phrase is defined as that use, from among reasonably probable and adequately supported alternative uses, which is:

- **Legally permissible.** This would exclude uses prohibited by zoning limitations., and
- **Physically possible.** You cannot put a 30,000-sq. ft. warehouse on a 25,000-sq. ft. site., and
- **Financially feasible.** The proposed project must generate sufficient revenues to cover costs plus a profit for the developer., and
- **Maximally productive.** Although a retail development would result in highest market value for a property, a residential development scenario would net the highest return, i.e., the latter option would be the maximally productive use.

Real property is always valued on the basis of its highest and best use, which may or may not be its present use. Land value is based on the highest and best use of the land assuming it was vacant and ready for development to that use. Improvements (e.g., buildings) are valued according to how they contribute to (or detract from) the value of the land. When applied to an appraisal assignment, the highest and best use being considered must occur within the reasonably near future and can't be remote or speculative in nature.

- **The Concept as Applied to Personal Property**

Personal property appraising recognizes the concept of highest and best use but in a slightly different manner. For personal property appraising, the concept takes into account that alternative property uses and marketplaces can affect value. Many personal property appraisers no longer use the phrase "highest and best use" to describe this analysis, nor is its use mandated by USPAP. Indeed, beginning with its 2012-2013 edition, USPAP's Standards Rule 7-3 *Property's Use, Market, and Relevant Economic Conditions* no longer uses the phrase as it pertains to analyzing the current use and alternative uses of the subject property.

Instead, SR 7-3 now emphasizes the need to recognize potential alternative uses of the subject property which could result in differing values. SR 7-3 also focuses on the need to define and analyze the "most appropriate" market consistent with intended use and the type and definition of value being developed.

Note that the "most appropriate market" is not a factor when dealing with real property since the location of the land is fixed and immovable. Personal property, however, is normally easily transportable to a different geographical location. As a result, personal property can be offered for sale in a wide range of markets or market levels—be it at a local yard sale, a national auction house, to a wholesaler for resale, or to a specialist collector in another country. Accordingly, for personal property the issue of highest and best use incorporates two important factors: **alternative uses** as well as the **most appropriate market or market level**. Accordingly, the concept of highest and best use becomes a two-part issue for the personal property appraiser:

- **Current/Alternative uses:** The appraiser must consider alternative uses and must decide on the **ultimate** use for which the item is being considered (consistent with the intended use of the appraisal and the type and definition of

value being developed). The ultimate use of an electric lawnmower is obviously to cut grass. The ultimate use of a sofa, a lamp and some pots and pans is for utilitarian uses in furnishing a home. The ultimate use of a wooden butter churn, however, is not so obvious. To a non-collector a butter churn may be worthless because it is obsolete, but to a collector, the churn has value due its decorator appeal and appreciating collectible nature. Since the object has the most value if considered in this light, the ultimate use of a butter churn must be considered to be as a decorative and not utilitarian object.

- **Appropriate market or market level:** The appraiser must also make a determination as to which market is the most appropriate market or market level to research (consistent with the type and definition of value being developed).

  - For a replacement value appraisal assignment, the appraiser would explore that market in which the insured most typically shops.

    - An oak hand crank telephone being appraised for the intended use of acquiring insurance coverage would be considered as an appreciable antique as opposed to an obsolete piece of technology. Its highest and best use would be as a decorative collectible as opposed to being a functional communication device. In addition, since acquiring insurance coverage is the intended use, the appraiser makes use of replacement value—the definition of which would cause the appraiser to research the retail market in which the insured most customarily shop and in which the insured could obtain a comparable replacement telephone within a reasonable amount of time. Accordingly, the appraiser researches the retail market, examples of which might include local antiques shops or Internet websites.

  - For a market value appraisal assignment, the most appropriate market to consider would be that market in which sales between knowledgeable and prudent parties would result in the highest prices paid, given the definition of value being developed.

    - A yard sale is the market of highest and best use for common household goods being appraised for orderly liquidation value. But a yard sale in which consumers are typically bargain-hunters would not be the most appropriate market for a vintage Tiffany lamp, for an American Brilliant Period cut glass punch bowl, or for our wooden butter churn being appraised at fair market value. The most appropriate market for these types of items might instead be a well-advertised national or regional auction house that specializes in the sale of vintage lamps, collectible glass or country kitchen collectibles.

As noted, USPAP recognizes this interpretation and application of the concept of highest and best use as it pertains to the personal property appraisal discipline in the below Comments sections of SR 7-3 *Property's Use, Market, and Relevant Economic Conditions*:

In developing a personal property appraisal, when necessary for credible assignment results, an appraiser must:

(a) analyze the property's current use and alternative uses as relevant to the type and definition of value and intended use of the appraisal;

Comment: In the context of personal property, value can be a function of the choice of the appropriate market or, in some cases, market level for the type of item, the type and definition of value, and the intended use of the appraisal.

The appraiser must consider the various uses of the property when viable alternative uses exist and when those alternative uses may result in a different value.

(b) define and analyze the appropriate market consistent with the type and definition of value; and

Comment: The appraiser must recognize that there are distinct levels of trade (measurable marketplaces) and each may generate its own data. For example, a property may have a different value at a wholesale level of trade, a retail level of trade, or under various auction conditions. Therefore, the appraiser must analyze the subject property within the correct market context.

(c) analyze the relevant economic conditions that exist on the effective date of the valuation, including market acceptability of the property and supply, demand, scarcity or rarity.

In summary, USPAP requires that (**when necessary** for the development of credible assignment results) the appraiser must analyze the property's current and alternative **uses** as they relate to the **intended use of the appraisal** and to the **type and definition of value** being used. In the case of personal property, value can be a function of the choice of **market** and **market level**, of the **type and definition of value** and of the **intended use** of the appraisal.[350]

Valuation Principles Relating to the Item (Property Identification)

Principle of Identification

This principle is one applied more by the authenticator than by the appraiser. As discussed in Chapter 6, appraisers are seldom qualified to render opinions of authentication. But for those who do authenticate (be they appraisers or not), the principle of identification forms the foundation of their efforts. The principle states that a genuine article has certain identifying features, characteristics and/or marks. If the subject property under study has the same telltale characteristics as a known genuine object, then the subject property is assumed to also be genuine.

[350] See the Chapter 1 section entitled *Market* as well as the Chapter 9 section entitled *Most Appropriate Market* for related discussions regarding "market levels" and "levels of trade."

Principle of Contribution

In real property, the principle of contribution holds that the value of a component of the whole property is a function of its contribution to the whole rather than as a separate, standalone component. In other words, the value that an improvement contributes to the value of the whole property does not necessarily equate to the cost of that improvement. The contribution of that improvement to the value of the whole property could be more or it could be less than its mere cost. For a homeowner, adding a swimming pool, outdoor brick barbecue and patio, screened-in lanai and even new carpeting and drapes may not yield a return equaling the cost of those improvements when the home is sold. The added value will often be less than the cost of these types of improvements. However, the cost of upgrading the kitchen and master bathroom might very well easily be recouped upon sale since marketplace participants normally consider that the contribution that such improvements make to the whole property's value typically far exceed the cost of those improvements.

For personal property, the principle of contribution recognizes that the presence of a particular component, attribute or feature may add to the value of the whole property while the absence of the component, attribute or feature may detract from the value of the whole. A painting with the artist's signature appended will normally be more valuable than the same painting if unsigned. Carvings to the knees and feet of a period Chippendale dining chair contributes significantly to the value of the whole chair when compared to a chair that does not have similar carvings. The Principle of Contribution makes a collection of historical Civil War artifacts (letters, medals, photographs, accoutrements, etc.) all relating to a particular soldier worth more as a collection than the aggregate value of the individual artifacts when considered separately.

Understanding the contribution to value made by the presence (or absence) of a component or feature allows the use of comparable properties on which to base value of a subject property.

Principle of Sampling

The principle of sampling states that, if taken fairly, a small sample of the total can serve as a factual basis for analyzing the entirety of all the items providing the items sampled are identical or sufficiently similar. Sampling is employed when it is not feasible or necessary to physically examine or collect data on each item. Examples might include a bin of 2000 machine parts, or the contents of a defunct record store or used-book store, or even for a large dinner service, the bulk of which is in storage. When a sampling technique is used in an appraisal, it is assumed that the selected sample is sufficiently large and fair to develop an accurate opinion as to condition and value of the totality.

A limiting condition (that not all items were inspected) and the resulting extraordinary assumption (that items not inspected were assumed to be of the same quality and condition as the sample) must be disclosed in the appraisal report whenever sampling is employed.

Do **not** use the sampling technique when for purposes of determining the fair market value of property donated for charitable deduction purposes. The IRS requires that the properties in question be valued property-by-property for each of the items being donated.

Principle of Qualitative Ranking

The principle of qualitative ranking states that an opinion of relative quality (and hence relative value) of the subject property can be determined by comparing the relevant characteristics of the subject property (i.e., its quality, economic and physical characteristics that are relevant to value and marketability) with comparable characteristics of other properties that are being used as a standard of comparison. Such relevant property characteristics might include condition, quality of construction and materials, features, maker's mark, aesthetic appeal or artistic merit, etc.

Examples of grading or ranking scales associated with those properties chosen as "standards of comparison" might include a generic Excellent, Good, Average, Fair and Poor. They might also include a scale that is more specific such as special interest cars which are ranked on a scale from a high of #1 (show car) to a low of #6 (good for scrap only). Sports cards, coins, gemstones, stamps and many other types of property have their own standardized grading scales as well that are well-known and accepted in their respective fields. As a result of qualitative ranking, the subject property can be pigeonholed in one of the grading scale levels based on its relevant property characteristics as compared to those of the properties being used as a standard. The higher up the scale the subject property can be placed, the higher its value. Note that qualitative ranking is not scientific, rather it is subjective and may vary between appraisers based on their experience and ability to judge.[351]

Identification & Authentication

In this section, we discuss identification as well as authentication. They are not one and the same, but nor are they mutually exclusive.

In the appraisal of real property, identification that is tied to the legal description of the subject property in accordance with local requirements is adequate to properly **identify** the property in question.[352]

However, in the arena of personal property there exists no such legal method of describing property or identifying its relevant characteristics. Necessarily, issues relating to identification become much more subjective and complex for personal property than for real property. Moreover, unlike real property, for personal property the matter of **authentication** or genuineness can also play a paramount role, particularly in the areas of property where copies, fakes, forgeries and reproductions are known to exist such as with questionable prints supposedly by Dali, Miro, Chagall, and Picasso.

Non-genuine items are a fact of life in the world of antiques and collectibles. Note, though, that just because an item is not original does **not** mean it is without value. **Copies** have been made since the earliest times. Romans copied Greek bronzes. Chinese ceramicists and printmakers made copies of earlier works as a form of flattery of the great masters. The resulting copies, while not "genuine," can still be extremely valuable.

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[351] See the Chapter 5 section entitled *Value Ranking.*

[352] Such as property being identified by lot, block and tract for subdivided urban land; metes and bounds for irregularly shaped parcels of land; township and section for rural, agricultural, mining and forest lands.

Copies, Fakes, Counterfeits, Forgeries, Reproductions, Fantasy Items

Specific terminology has evolved so that we can differentiate between the various types of non-genuine items.

The term "**copies**" could refer to a single exact replica of an original work of art such as the aforementioned Roman bronze, or the term "copies" could instead refer to the manufacturing of a relatively large number of identical items such as books or limited-edition prints. Quite often the original copyist had no intention to deceive, but, as time passes, subsequent owners may (knowingly or unknowingly) misrepresent the piece as being an original rather than a copy. If **intentional**, the misrepresentation is referred to as **fraud**.[353]

Fakes, **counterfeits** and **forgeries** are items which were illegally produced with the **initial** intent to deceive. Fakes, counterfeits and forgeries may or may not attempt to exactly duplicate the original, as does a "copy." A supposedly 18th century "Chippendale" chest of drawers made up of old wood during the 20th century with artificial signs of aging applied is an example of a fake. Another example of this category is counterfeit money.[354] In both cases, the **initial** intent is to fool someone into thinking the item is genuine when, in fact, it is not.

Forgeries generally relate to the presence of a false or unauthorized signature or maker's mark on an artwork or collectible. Like fakes and counterfeits, a forgery is also created with the **initial** intent to deceive. A baseball may have a forged "Babe Ruth" signature applied, or a common piece of iridescent glassware may have a forged "Tiffany" signature scratched on the bottom using an electric marking device.

Reproductions duplicate items already in existence. Reproductions make use of modern manufacturing techniques and are not exact duplicates. No fraudulent use is **initially** intended by the manufacturer of reproductions; however, subsequent sales by unscrupulous re-sellers could attempt to intentionally deceive and perpetrate frauds. Several legitimate wholesale businesses specialize in selling reproductions—everything from "Tiffany" and "Art Nouveau" lamps to "Chippendale" furniture and "vintage" cast iron toys. There is nothing illicit with the initial sale, as during such sales the fact that the items are new is clearly known by both seller and buyer. However, dishonest buyers may add artificial signs of age to the items and then attempt to resell the items as being "old."

The term **synthetics** as used in gemology refers to man-made materials that exactly duplicate the chemical, physical and optical properties of their natural counterpart such as a synthetic ruby or Moissanite, which is a synthetic diamond.[355] Other categories of **synthetics** have less stringent parameters such as "synthetic" fur which is comprised of man-made fibers that don't duplicate the chemical composition of natural fur at all.

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[353] By definition, fraud is the misrepresentation of facts in an effort to induce another to rely on the misrepresented facts—usually for the financial benefit of the person committing the fraud.

[354] Coin appraisers are required by federal law to report counterfeit coins and currency to the U.S. Secret Service, thus revealing the name of the client. Doing so is not in violation of USPAP. The Confidentiality section of the ETHICS RULE permits the disclosure of the client's name to *"such third parties as may be authorized by due process of law."*

[355] A related gemological term is **simulant** which refers to a material that has a similar appearance as the genuine gemstone but does not have the same chemical, physical or optical properties. An example of a simulant is a Cubic Zirconium which simulates a diamond without having the exact chemical properties of a diamond.

Fantasy items are items made to look like an old collectible but which **never existed originally**. Fantasy items are the result of the fanciful imagination of the modern maker. An example would be Hopalong Cassidy cast brass belt buckle. One might be for sale today, but it never existed originally when "Hoppy" was in his heyday back in the 1950s.

Appraiser Assumed All-Knowledgeable

The appraisal process is a complex one. Seldom is the consumer familiar with all the steps that are involved in the development of an opinion of value, or of what the appraiser's capabilities or limitations might be. However, by merely presenting themselves as appraisers, professional appraisers are **assumed** by the public to be knowledgeable about all matters regarding the subject property including its **identity**, rarity, source, value, marketability, and even its **authenticity**!

Professional appraisers often promote themselves as specializing in specific areas such as fine art, machinery & equipment, antiques, residential contents, or gems and jewelry. In addition, they often represent themselves as having the requisite education, societal designations, and qualifications necessary to conduct the appraisal assignment and even to serve as expert witnesses or consultants for litigation purposes.

As a result, the public has an **expectation** that the appraiser will, as USPAP's definition of the term *Appraiser* states:

> *"perform valuation services competently and in a manner that is independent, impartial, and objective."*

Appraiser Normally not an Authenticator

Implicit in the client's understanding of the appraiser's qualifications is that the appraiser, by merely having the ability to assign value, is **thoroughly** knowledgeable about the property, including issues relating to identification and authentication. Such is not always the case.

The appraiser typically faces several challenges from the moment of considering whether or not to accept an appraisal assignment to the preparation of the final appraisal report including:

- Following the appraisal process as stipulated by USPAP STANDARD 7 *Personal Property Appraisal, Development*,
- Properly identifying the appraisal problem including the several assignment elements related thereto as required by USPAP SR 7-2 *Problem Identification*,
- Recognizing his or her competency level; if inadequate, taking steps to remedy the situation before proceeding by complying with the COMPETENCY RULE of USPAP,
- Deciding on the appropriate scope of work to perform that will result in credible assignment results as per USPAP's SCOPE OF WORK RULE,
- Accurately **identifying** the property as well as the property's relevant characteristics as per USPAP SR 7-2(2),

- Knowing if an expert opinion of **authenticity** is required before proceeding,
- Conducting sufficient market and value research to formulate a credible opinion or conclusion, and
- Preparing the final appraisal report in accordance with USPAP STANDARD 8 *Personal Property Appraisal, Reporting* in a complete, objective, and logical manner so that the report is understandable and non-misleading.

Due Diligence

At every stage of the above process, the appraiser must employ **due diligence**. Due diligence is defined as:

> *Such a measure of prudence, activity, or assiduity, as is properly to be expected from, and ordinarily exercised by, a reasonable and prudent person under the particular circumstances; not measured by any absolute standard, but depending on the relative facts of the special case.* (Black's Law Dictionary)

Courts hold professionals to higher standards of duty than non-professionals, and exercising due diligence is one of those higher standards. Due diligence requires that the appraiser meets the standard of **substantial evidence**, which is:

> *Such evidence as a reasonable person might accept as adequate to support a conclusion.* (Black's Law Dictionary)

The application of due diligence begins with the appraiser's decision to accept or reject an appraisal assignment. This decision is based on the appraiser's diligent review (prior to accepting the assignment) of his or her own capabilities which culminates in the appraiser's decision that he or she is or is not competent to undertake the scope of work necessary for credible results.

If the assignment is accepted, the appraiser's opinions as to a property's identity, authenticity and value are only as credible as the facts (i.e., the evidence) on which those opinions are based. (This is not unlike an expert witness's testimony in court.)

Appraiser Thought of Identifier as Well as Authenticator

As noted, the appraiser is implicitly assumed by the client to be all-knowing regarding the subject property by the mere act of the appraiser agreeing to perform an assignment. Included in this expectation is that the appraiser will be able to fully and completely **identify** the property. To the general public, however, there is no distinction between **identification** and **authentication** nor does the public normally care— *"...the appraiser does it all!"* But to the contrary, one role that the professional appraiser typically **does not** play is that of authenticator.

While appraisers always **identify** (indeed USPAP SR 7-2(e) requires the appraiser to **identify** the subject property and its relevant characteristics), unless they are highly-experienced within their area of specialization, seldom do appraisers perform **authentications**. Regardless, USPAP's mandate to identify the property would, of course, necessitate that an expert authentication be performed should the property type and intended use of the appraisal so require. In such cases, the

appraiser must recognize the need to have an authentication performed—if not by the appraiser, then by a recognized authenticator.

To **authenticate** means to establish as genuine, or to establish the authorship or origin conclusively or unquestionably—chiefly through the technique of scholarship. To become an expert to the level that one has the ability to authenticate, one must study and develop an extraordinary level of knowledge and familiarity with the subject property type.

Normally, the appraiser does not act as an authenticator, but rather relies on recognized experts to authenticate **if and when** authentication is required. Recognizing self-limitations, knowing when authentications should be sought, and seeking the assistance of experts when necessary demonstrates the application of due diligence by the appraiser.

In the next two sections, we will discuss **identification** and **authentication** in detail and explain how one differs from the other.

Identification

While related, the terms **identification** and **authentication** have distinct and separate meanings within personal property appraising.

Identification is the act of ascertaining a set of characteristics by which a property or property type is known or recognized, i.e., identification assigns a noun name to a property and includes the identification of the property's physical characteristics. For example, is the subject property a diamond ring, or is it merely a piece of costume jewelry? Is the framed piece of art an oil painting on canvas, or is it a photographic reproduction on paper, i.e., a print? Is the chest of drawers made of particle board or of solid wood? Are the chair's feet carved, or are they plain?

Identification is characterized by properties that are **exact**, **measurable**, and **quantitative**. They are seldom subject to dispute or opinion. Identification involves the observable and scientifically-provable **intrinsic, physical characteristics** of a property such as form and usage, materials used, size, construction techniques, weight, dimensions, signs of damage, observable markings, etc. Recall that USPAP defines *Physical Characteristics* as:



PHYSICAL CHARACTERISTICS: attributes of a property that are observable or measurable as a matter of fact, as distinguished from opinions and conclusions, which are the result of some level of analysis or judgment.[356], [357]

When the subject property has physical characteristics similar to those characteristics of a **known** item, then the **identity** of the subject property can be ascertained. For instance, if a colorless "gemstone" contains air bubbles, it cannot be a diamond. It may be glass or plastic, but it cannot be a diamond since it is a known scientific fact that diamonds can't possibly contain air bubbles. On the other hand, if a colorless gemstone has a refractive index of 2.41, a specific gravity of 3.52, has an adamantine luster and is singularly refractive, then you can be assured that it is a

[356] See the Chapter 5 section entitled *Physical Characteristics (Internal Forces that Affect Value)* for a related discussion.

[357] As noted in USPAP's DEFINITION of *Assignment Results*, physical characteristics of the property are not assignment results. As a result, the appraiser can share physical characteristics with others such as with another appraiser. Doing so helps ensure higher quality appraisals.

diamond (or a Lab Grown Diamond) as it contains the intrinsic characteristics of a known property, i.e., of a diamond.

Identification is seldom subject to dispute because it deals with scientific and observable or measurable physical, intrinsic features. Examples of identification include:

- "It is a mahogany chair."
- "This is a mink stole."
- "It is a solid walnut roll-top desk, measuring 55" high by 60" wide by 30" deep; the kneehole is flanked on each side by a column of four stacked drawers each with a carved wooden pull."
- "This automobile is a 1955 Chevrolet, four-door sedan."
- "This necklace is made of natural pearls."
- "This is not a diamond. It is glass."

Property and its relevant characteristics should be identified in a manner that is relevant to the intended use of the appraisal as well as to the type and definition of value being used by the appraiser. For **real** property, this can be accomplished by a legal description, address, map reference, survey, property sketch, or photographs. For **personal** property, however, Standards Rule 7-2(e) of USPAP states that to properly identify a property, the appraiser should:[358]

> *Identify, from sources the appraiser reasonably believes to be reliable, the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal, including*
>
> > *(i) sufficient characteristics to establish the identity of the item including the method of identification;*
> >
> > *(ii) sufficient characteristics to establish the relative quality of the item (and its component parts, where applicable) within its type;*
> >
> > *(iii) all other physical and economic characteristics with a material effect on value;*
> >
> > > *Comment: Some examples of physical and economic characteristics include condition, style, size, quality, manufacturer, author, materials, origin, age, provenance, alterations, restorations, and obsolescence. The type of property and the purpose and intended use of the appraisal determine which characteristics have a material effect on value.*

[358] For related discussions see the Chapter 3 section entitled *Inspection vs. Non-Inspection*, the Chapter 5 section entitled *Value Creators and Relevant Characteristics*, and the Chapter 10 section entitled *Describing Property*.

For **real** property, the issue of **authentication** (discussed below) is non-existent. While, as noted above, it is important to properly **identify** a particular parcel of land and/or improvements thereon in a legal fashion, it is not necessary to "authenticate" (i.e., render an opinion regarding an item's genuineness, or its authorship or origin) a one-story brick rambler or a 10-acre wooded lot. For personal property, however, identification often goes beyond a simple description of the property as understood within the marketplace.

Because of the existence of copies, fakes and forgeries in the field of personal property, the appraiser must go beyond identification and must apply **due diligence** to determine **if an authentication is required** in order to prove genuineness for those items for which such proof could result in a significantly increased value conclusion and/or a greatly enhanced appreciation for the property's significance.

The appraiser must always have the capability of identifying the property, but **if and when authentication is deemed necessary**, the appraiser (if not an authenticator him- or herself) must seek the opinions of experts to determine whether or not an item is authentic.[359]

Online Resource for Identifying Fakes and Reproductions

Powered by rubylane.com, "Real or Repro" (realorrepro.com) is an online source of information for those who want to research or identify reproductions relating to the antiques & collectibles market. Their extensive, free library contains articles and information on thousands of items spanning all marketplaces and periods.

Authentication

Remember that **identification** is exact, measurable, and quantitative. Unlike identification, however, **authentication** is **inexact**, **opinionated**, and **subjective**. To **authenticate** an item is to render an opinion regarding an item's genuineness, or its authorship or origin.

It is **identification** that begins the process of understanding all there is to know about an item by recognizing its indisputable intrinsic, physical characteristics which provide the basis for authentication. However, authentication expands the evaluation process to involve the **extrinsic** characteristics as well such as place of origin, age, authorship, provenance and even past opinions of authenticity.

Authentication uses knowledge (past and present) to establish that an object has a specific identity, is by a particular hand, was made on a particular date, is a known and particular item, or has a particular background. Typically, the authenticator compares characteristics of a subject property to those same characteristics of an example that is known to be authentic. By comparing the similarity between the subject property and the known example, the expert can judge whether or not the subject property is, in all likelihood, also authentic.

Authentication might be required to prove:

- That an autographed letter allegedly written and signed by Abraham Lincoln is genuine,

[359] An exception would be the specialist appraisers who are themselves capable of authenticating items within their area of specialization.

- That a glass paperweight is, indeed, French from the mid-19th century and not a late-20th century copy,
- That a Gallé cameo glass vase is genuine and not a reproduction, or
- That a Salvador Dali print is not a fake.

Authentication is not Always Conclusive

Authenticity attempts may be inconclusive in as much as even experts may disagree among themselves. Authenticators may even change their own opinions over time. Authentication is opinion based on **informed judgment**, but those opinions are based on what is known as of the date the opinion is rendered. Opinions may change over time because new information comes to light or because new testing procedures are devised which might disprove earlier conclusions. Subsequently, what is considered by experts to be authentic one day may be deemed not genuine at some point in the future.

Levels of Attribution

Regarding art, various **levels of attribution** further complicate the matter. The process of authentication assigns a level of certainty regarding the genuineness of authorship as well as of the signature and date, if any, appearing on the work. All else being equal, value will increase as a determination of absolute genuineness is approached. Value is maximized when an item is deemed to be authentic.

For art, auction houses, dealers, and scholars use various terms to denote levels of attribution as it relates to authorship, signature, and the date of a work. Since there is no universally-accepted meaning of these terms, appraisers who make use of these or similar terms should also provide definitions. Here are some examples of common usages listed in order of highest level to lowest level of attribution:

Regarding authorship:

- **By the artist…**
  Means that in the writer's opinion the item is authentic and is a work by the artist alone. (**This level goes beyond identification to absolute authentication regarding authorship.**)
- **Attributed to…**
  Means that in the writer's opinion the item is a work of the period of the artist which may, in whole or in part, be the work of the artist.
- **Studio of…**
  Means that in the writer's opinion the item is the work of unknown hand possibly made under the master's supervision.
- **School of…**
  Means that in the writer's opinion the item is a work by a pupil or follower in immediate contact with and influenced by the master.

- **Circle of…**
  Means that in the writer's opinion the item is a work of the period of the master by one who was influenced by the master; closely related to style of the master.

- **In the manner of...** or **In the style of...**
  Both of these mean that in the writer's opinion the work is in the style of the master, but possibly of a later date.

- **Copy of... or After…**
  Both of these mean that in the writer's opinion the work is a copy of a known work of the artist, often of a later date; perhaps of a different medium.

Regarding the artist's signature:

- **Signed…**
  Means that the work has a signature and in the writer's opinion it **is** the signature of the artist. (**This level goes beyond identification to absolute authentication regarding signature.**)

- **Bears a signature…**
  Means that the work has a signature which in the writer's opinion **might have been added** by another hand.

Regarding the date of execution:

- **Dated…**
  Means that the work is dated and in the writer's opinion the work **was executed** on or about that date. (**This level goes beyond identification to absolute authentication regarding date of execution.**)

- **Bears a date…**
  Means that the work is dated and in the writer's opinion **might have been executed** on or about that date.

Referencing the above, if a work is "**by**," "**signed**" and "**dated**," it is deemed by the writer to be authentic in all three areas of concern and, as such, is at its **highest level of attribution**, and, consequently, at its maximum value.

Basis for Authentication

The authentication of older works is typically a subjective, laborious and time-consuming process. Since authentication is so **subjective** and **opinionated**, it is imperative that authenticators study and take into consideration as many indicators of genuineness as possible. Some of these indicators in order of significance include:[360]

[360] A topic much too involved for this book other than for a brief mention here are the rapid changes in technology that are having an impact on the way new works of art are able to be authenticated and tracked. Included are: the use of algorithms that codify characteristics of the artist to distinguish the work from forgeries; the use of mass spectrography to "fingerprint" a work; the application of a synthetic-based DNA

- Factual information such as the artist's personal statement including writings that a work of art is by his or her own hand. This is the strongest type of authentication.

- Statements made by anyone who witnessed the execution of the work by the artist, saw the artist sign the work, purchased the work from the artist, sold works for the artist, was the artist's printer or fabricator, was the artist's publisher or distributor, was related to the artist, cataloged the artist's work, or was otherwise closely associated with the artist.

- Documentation of past ownership, i.e., its provenance. If available, a complete and irrefutable chain of ownership is often the quickest way to determine authenticity, particularly if the artist is no longer living.

- History of citations in literature or exhibitions displaying the item.

- Determination of the maker (or origin) might involve a study of the signature, hallmark or trademark which, if correct, could indicate genuineness.

- Recognizing the expected aesthetic qualities, elements of design, or subject matter that are typically associated with a particular maker.

- Physical evidence such as construction techniques and materials used (type of canvas used in a painting, inscriptions or marks on the canvas or stretcher, construction techniques used by a known cabinetmaker, etc.).

For paintings, the authentication process requires an understanding of several factors including:

- The artist's typical style as well as favorite subjects and compositions

- The location at which the artist's signature is usually found

- Types of brush strokes used by the artist

- The mediums in which the artists usually worked

- The size(s) of paintings the artist is known to have produced

- Materials typically used by the artist including color palette, and canvas and stretcher types

- Supplier labels that should be expected to be seen such as a supplier's label or stamp on the back of the canvas or stretcher

- The technique the artist typically used to mount, title, or number pieces

- The gallery tags or labels that should be present

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tags to new works (including to digital art); and the use of digital tracking technology to verify the provenance of digital art.

When to Authenticate

All items require **identification** by the appraiser; however, not all items require **formal authentication** by a specialist appraiser or expert. For instance, the item's maximum possible potential value, the assignment's scope or work, or the intended use of the appraisal may not necessitate a formal authentication. In such instances, the appraiser may employ the concept of **readily apparent identity** (see below) if doing so is consistent with what is required to satisfy the requirement that the appraiser apply due diligence, the extent of which will depend to a large degree on the intended use of the appraisal report.

In any appraisal assignment, the appraiser must ascertain whether or not authentication of the property would materially affect the property, including possibly its value or how the property would otherwise be perceived within the marketplace if subjected to the authentication process. If such affects would be significant, then authentication should be pursued. If such affects would not be significant, then authentication need not be considered and readily apparent identity can be relied upon as a due diligence substitute.

Examples of when authentication might be required include:

- **If the intended use of the appraisal requires authentication**. The development of an opinion of value for a work of art being donated to a museum would necessitate knowing whether or not the work of art was authentic. Similarly, a client and would-be purchaser of an important painting would want an authentication performed as part of an appraisal process.

- **If the value of the item would change significantly if authenticated**. An authentic Chagall print is significantly more valuable than a fake.

- **If authentication would cause a change in the item's most appropriate market**. Genuine articles are sold in a marketplace much different from the marketplace in which fakes and reproductions are normally found.

- **If the item is of sufficiently-high original value to warrant authentication**. Insignificant items such as everyday dishes need not be authenticated. However, an apparently unsigned Rookwood vase might benefit if authenticated.

- **Where fakes and forgeries are known to exist**. Items for which there are known to be fakes and reproductions may warrant authentication because of the high probability that the subject property may not be genuine.

- **Authentication might be required for historical or scholarly needs**. Historical societies or museums may need an authentication to ensure accuracy in cataloging or in selecting objects for display.

- **Authentication required for proper auction cataloging or pricing**. Auction houses may require authentications be performed in preparation for an upcoming sale. Dealers may require authentication prior to setting an asking price.

Readily Apparent Identity

The readily apparent identity of an item is what the appraiser observes and concludes about the identification and authenticity of the subject property based upon a close inspection of the property (or of client-provided or third-party-provided photographs and property descriptions) combined with his or her own personal knowledge and previous experiences with that kind of property.



The issue of readily apparent identity is addressed in the Comment to USPAP's definition of *Personal Inspection:*

> *Comment: An appraiser's inspection is typically limited to those things readily observable without the use of special testing or equipment. Appraisals of some types of property, such as gems and jewelry, may require the use of specialized equipment…*

In the appraisal process, the appraiser takes into consideration how buyers and sellers within the marketplace recognize and make use of commonly known information as it relates to identification and authentication of the subject property. If what is known by the appraiser matches that which is **typically required** by the market to warrant a conclusion of identity and/or authenticity, then the appraiser has sufficiently exercised his or her duty of due diligence, and no further authentication effort is necessary. Such sufficiency is reflected in the concept of **readily apparent identity**.

As a rule, depreciable property does not require authentication, nor do many types of appreciable property; however, for some types of appreciable property proof of genuineness would not only cause a change of market but could also have a significant impact on the object's value. Appraisers often use the concept of readily apparent identity because they consider themselves capable of identifying/authenticating a subject property to a degree sufficient to render such an opinion of value without the need for pursuing a formal authentication.

Readily apparent identity does not require outside analysis, testing, research, or outside expert opinions. The technique takes into consideration certain "readily apparent" physical characteristics of the property in order to identify/authenticate the property adequately enough for the purposes of the intended use of the particular appraisal assignment at hand.

As an example, if from visual observations the knowledgeable appraiser can determine that a purported Currier & Ives print was made using the proper techniques, is on what appears to be the proper paper, has the appropriate signs of age, and carries the expected maker's marks, then the appraiser, applying readily apparent identity, can identify the property, and can deem it to be authentic and not a copy. The appraiser can do so not because he or she is a nationally-known expert with years of personal study and research into Currier & Ives prints. Rather, because of his or her experience and personal knowledge of this type of property, the appraiser is able to make determinations about the property that reflect what the marketplace considers to be sufficient proof of genuineness.

If, however, what is known by the appraiser is **not** considered by the knowledgeable marketplace as sufficient to warrant a conclusion as to identity or authenticity, then the appraiser must recognize his or her limitations and take steps (or recommend to the client that steps be taken) to rectify the shortcoming. If the appraiser is not competent to conclude either identity or authenticity him- or herself to the degree required by the marketplace, then the appraiser must

seek expert professional opinions or recommend to the client that professional opinions be sought. Failure to do so may cause the appraiser to be liable for malpractice.[361]

Do Not Abuse Readily Apparent Identity

The concept of readily apparent identity is not an escape from responsibility nor is using the concept appropriate in many circumstances including, often, when fakes and forgeries are known to exist. Where certain property is known to have been widely reproduced or actually forged (e.g., Dali and Chagall prints), the use of readily apparent identity typically would not begin to meet the requirements for due diligence so should not be used. Instead, the opinion of an expert authenticator must be sought.

The above should not be construed to mean that authenticators must be called upon whenever fakes or reproductions are known to have been made. Many appraisers are adequately knowledgeable to tell the difference between an authenticate item from a modern reproduction even though the existence of fakes and reproductions are widely known. But if the appraiser is unable to differentiate between an original and a fake, then the assistance of an authenticator should be sought.

Certain intended uses of appraisals may limit the appraiser's ability to make use of the concept of readily apparent identity. For example, some tax liability appraisal uses may allow its use (such as state inheritance tax appraisals for low value items), while others may not allow its use (such as federal income tax deductions for noncash charitable contributions of high value works of art). The latter case may require that an authentication be undertaken in order to help substantiate a claimed deduction.

Though the appraiser is typically not the authenticator, the appraiser has the responsibility of knowing when to recommend that an item be authenticated by an expert. The appraiser may be charged with arranging for and organizing the authentication process. It will be necessary to know who the experts are, how they can be contacted, how they work, what tests they might use, what the tests indicate, and what form the authenticator's report will take.

Sources of Authentication

The appraiser should be familiar with sources for authentications. Included are laboratories such as those that do paint or wood analysis, or those that can conduct thermo luminescence testing of ceramics. Well-respected experts who are authors of published works regarding the topic are a primary source of authentication services. These experts may have authored a catalogue raisonné[362] or other definitive texts regarding the property type or the artist in question. They may have experience in offering expert testimony on the subject, or perhaps they have museum curatorial experience.

Auction houses also have specialists on staff who might be of assistance. Dealers who specialize in a particular area frequently have extensive knowledge in their chosen areas of interest. Specialist collector clubs, specialist collectors, and editors of specialist collector periodicals may also be good sources for expert assistance in identifying or authenticating an item or directing the appraiser to an expert who can be of assistance. The appraiser's best choice, however, is a

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[361] See USPAP's COMPETENCY RULE for a related discussion of appraiser competency.
[362] A French term meaning "reasoned catalog."

specialist who is published, who is well-known in the field, and who will provide a written report of his or her conclusions as opposed to simply providing an oral opinion.

Disclaimers and Terms of Use

A **disclaimer** is a statement or assertion that disavows responsibility. However, like cholesterol, in appraising there are "bad" disclaimers but then there are also "good" disclaimers.

Terms of use are rules set up by the appraiser to govern how and by whom the appraisal report may be used, and what can and cannot be done to the appraisal with or without the appraiser's permission.

Combining the "good" disclaimers with certain "terms of use," provides important information that is not only helpful but also necessary for the client and other intended users to completely understand the report so that they can properly make use of it. By accepting the appraisal report, the client accepts, without limitation or qualification, the disclaimers and terms of use included therein.

"Bad" disclaimers (which are to be avoided) are those general disclaimers of any professional responsibility and liability whatsoever for any harm that might come to the client as a result of his or her reliance on the appraisal report. Because of the appraiser's status as a professional, courts will not look favorably on an attempt to disavow responsibility for credible and competently prepared work products. However, because appraising is an inexact science subject to variations often beyond the control of the appraiser, certain disclaimers are normal and acceptable.

Disclaimers and terms of use cover issues pertaining to the specific assignment conditions and presuppositions under which the appraisal assignment was performed. They cover assignment-relevant issues, limitations and responsibilities which might otherwise result in the appraiser being charged with errors, omissions or professional negligence. Disclaimers and terms of use serve two purposes:

- They help to limit the appraiser's liability and exposure within the specific areas addressed, and
- They put clients and other intended users (as well as unauthorized users) of the appraisal report on notice of:
    - The limitations of each assignment,
    - The limitations of the appraiser's responsibilities and liabilities, and
    - The restrictions as to how and by whom the appraisal report can be used

Disclaimers and Terms of Use for Written Appraisal Reports

Below are some examples of disclaimers and terms of use applicable written appraisal reports. While they may change from assignment to assignment, disclaimers and terms of use normally remain constant. Having said that, it is important to note that these are not boilerplate or static appraisal report disclaimers and terms of use. They must be reviewed and edited as necessary for

each appraisal. Those not applicable should be omitted and additional disclaimers and terms of use should be added as circumstances require. Appraisal reports should include only those disclaimers and terms of use that apply to that particular assignment.[363]

Examples of Common Disclaimers

- *The values expressed are not a representation or warranty that the items will realize that value if offered for sale at auction or otherwise.*

- *The values expressed are as of the effective date of the appraisal and, unless otherwise stated, no opinion is expressed as to values as of any other date, past, present or future.*

- *When appraising a grouping of items, stated values are given item by item unless stated as being for the whole grouping. The total of the individual item values shall not be construed as an appraised value for the whole group, but merely as the addition of single item values. Where values are given for a grouping, the value for the collection is for the whole group and no opinion is given as to individual or proportionate values of individual items within the group.*

- *Where an appraisal is made on a sample of the whole it will be so stated, and the appraisal will be based on the extraordinary assumption that the sample is representative and fair. While I undertake to make every reasonable effort to ensure the samples taken are representative and fair, no warranty is given or implied that this is, in fact, the case.*

- *Where the appraisal is contingent upon the validity of statements, data or documentation supplied by the client or others, the appraisal report shall so state by making reference thereto and, where appropriate, by attaching copies of such data and documentation to the appraisal.*

- *Unless otherwise noted, the condition of the items is good. Serious damages and existing repairs will be noted. Ordinary wear and tear common to these types of items is not noted. It is assumed that all mechanical, electrical and electronic devices function properly.*

- *Unless otherwise stated herein, the appraisal is based only on the readily apparent identity of the items appraised. Unless otherwise noted, no further guarantee of authenticity, genuineness, attribution or authorship is represented.*

- *Unless otherwise stated herein, the appraised values are based on the whole ownership interest of the owner undiminished by any liens, fractional interest or any other form of encumbrance or alienation.*

- *This appraisal is not an indication or certificate of title or ownership. The identification of the interest of the owner is simply that represented to me by the client and no inquiry or investigation will be made nor is any opinion to be given as to the truth of such*

[363] Avoid the appearance of "puffing up" your appraisal report by including irrelevant disclaimers. Incorporate only those disclaimers that pertain to the specific assignment at hand. Didn't make use of the sampling technique in the assignment? Then refrain from including the "sampling" disclaimer in your report!

representation.

- *If you intend to use this appraisal report in connection with a tax matter, note that I provide no warranty, representation or prediction as to the outcome of your tax matter. The taxing authority (whether the IRS or any other federal, state or local taxing authority) may disagree with or reject my opinion(s) of value or otherwise disagree with your tax position. The taxing authority may also seek to collect from you additional taxes, interest, penalties or fees. I have no responsibility or liability to you or any other party for any such taxes, interest, penalties or fees. I am not liable for any damages or other compensation relating to any taxes, interest, penalties or fees imposed on you or for any attorneys' fees, costs or other expenses relating to your tax matter.*

Examples of Additional Disclaimers Commonly Used for a Jewelry Appraisal

- *Unless otherwise indicated, the gemstones described in this report are identified as to their species and variety and have been authenticated as to being either natural or synthetic.*

- *Country of origin is not normally included in the authentication of gemstones. If a major difference in value would result by extending authentication to country of origin, extra services to do so will be discussed with the client. Should such services be requested, additional charges for shipping, insurance and laboratory fees will be due and payable.*

- *All gem material was graded in the mounting. The mountings limit the ability to be exact in the color and clarity grades assigned to these gems. This is reflected in the use of ranges when describing color and clarity. The terms used to describe colored gems and pearls are those outlined in the Handbook of Jewelry and Gemstone Appraising, (American Gem Society). Refer to the attached gemstone grading chart for a description of the gemstone clarity grades and diamond color grades.*

- *All gem material was measured in the mounting unless otherwise noted. Due to the mountings, the measurements cannot be exact. These measurements were used when calculating the gem material's carat weight using industry standard formulas. The carat weight for gem materials is approximate based on these calculations.*

- *Mountings bearing a metal karat or content mark were not tested to verify the metal content.*

- *Pennyweight (DWT) given for a listed item is actual gross weight., i.e., the combined weight of both the metal and the gem material(s).*

- *Unless otherwise noted, colored stones listed in the report have probably been subjected to a stable and possibly undetectable color enhancement process. Prevailing market values are based on these universally-practiced and accepted processes used within the gem and jewelry trade.*

Examples of Additional Disclaimers Commonly Used for a Fine Art Appraisal

- *Unless otherwise noted, estimated values for framed works of art include the value of the frame.*

- *Unless otherwise noted, works have not been removed from their frames, and statements as to the condition of an item are based on a visual inspection of the item while framed. Unless noted differently elsewhere in this report, I have made the extraordinary assumption that areas of the subject property covered by framing and/or matting is in good condition, has not been trimmed and contain no signatures, maker's marks, publishers' marks, labels, inscriptions or other identifying marks.*

- *Unless otherwise noted, estimates of value are based only on visual inspection with no tests of any kind having been conducted.*

- *Measurements are determined under "field conditions" and are, therefore, approximate.*

Examples of Commonly-Used Terms of Use

- *The intended use of this appraisal is for the express purpose of* **[determining federal estate tax liability, acquiring insurance coverage, litigation, determining a deduction for a noncash charitable contribution, etc.]** *Any other use of this appraisal renders it null and void.*

- *With the exception of you and identified intended users listed herein (if any), this appraisal report is not intended to be used by or influence any particular person(s) or class(es) of persons which might take some action in reliance upon it. Unless otherwise stated, I am not aware that you or your agent intend to transmit any information contained in this report to any other person(s) or group(s) other than to the appraiser-identified intended users listed herein. Regardless of who receives a copy of this report, my liability is limited to you and to the identified intended users of this report to the exclusion of all others. Parties other than those specifically listed as authorized intended users of this report who take some action in reliance upon this report do so at their own risk. Note that parties who receive a copy of this report as a consequence of disclosure requirements do not automatically become intended users. Intended users must be identified as such by me at the time of the assignment.*

- *Regardless of who receives a copy of this report, my liability is limited to the you, your agent and/or the identified intended users of this report as identified herein (if any) to the exclusion of all others. Parties other than those specifically listed as authorized intended users of this report who take some action in reliance upon this appraisal do so at their own risk.*

- *If this report is reproduced, copied or otherwise used by those authorized, the report must be used in its entirety which includes this transmittal letter and all enclosures and attachments.*

- *No changes can be made to this report by anyone other than myself. I am not responsible for any unauthorized changes to this report, and any such unauthorized changes immediately render this report null and void.*



Disclaimers and Terms of Use for Oral Appraisal Reports

Below are some examples of disclaimers and terms of use applicable to oral appraisal reports. Such disclaimers and terms of use are required to be "addressed" by USPAP SR 8-4 *Oral Appraisal Report.* To ensure clarity and completeness, some appraisers choose to address such matters verbally and/or by means of a written **assignment agreement**[364], an **oral appraisal report disclosures statement**[365], or both.

- *Because of limiting conditions such as the limited time constraints imposed and the limited research facilities available during an oral appraisal, in some cases values may have been rendered with minimal or no market and value research. In such cases, values are based only on research done, if any, combined with the appraiser's past personal market observations and experience with similar property types. At times, opinions of value which are based on research will differ from minimally- or non-researched opinions. The client agrees to assume the risk associated with such value opinions and holds the appraiser free of any form of liability in excess of the amount of the fee collected for this assignment.*

- *The appraiser communicated verbally and/or in writing to the client regarding issues relating to problem identification including the identification of: client and other intended users, the intended use of the oral appraisal, the property interest appraised (normally 100%), the type and definition of value developed, the effective date of the appraisal (normally date of inspection), the scope of work performed, any significant assistance being provided to me by other appraisers, any hypothetical conditions or extraordinary assumptions encountered, my appraisal methodology and techniques, and the appropriate markets from which I considered comparable data.*

- *The client declines to retain the services of the appraiser or other experts to prepare a formal, fully researched and written appraisal report at an additional cost.*

- *The appraiser is a generalist and not a specialist in any particular property type.*

- *Items appraised are briefly inspected to determine readily apparent identity only. No further authentication services were requested by the client or performed by the appraiser.*

- *The verbal information provided by the appraiser may be used only by the client and parties identified by the appraiser as intended users.*

- *The appraiser communicated verbally to the client any limiting conditions and extraordinary assumptions encountered during the course on the property examination.*

- *The appraiser reserves the right to not provide an oral opinion of value for certain items if the appraiser feels that he lacks sufficient competency and/or adequate market knowledge or experience.*

- *The client was advised to record this oral valuation session for record keeping purposes by making use of hand-written notes or audio or video recordings.*

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[364] See Appendix AA *Agreement for an Oral Opinion of Value (Oral Report Summary)* for an example.
[365] See Appendix HH *Oral Appraisal Report Disclosures Statement* for an example.

Chapter 7: *Uniform Standards of Professional Appraisal Practice* (USPAP)

*The critical importance of USPAP compliance emerged in the case of **Kohler v. Commissioner** of Internal Revenue case (July, 2006). In discrediting the IRS's analysis of value, the Tax Court noted that its appraiser had omitted the customary USPAP certification. Without the USPAP certification, the Court could not be assured that "the appraiser has no bias regarding the parties, that no other person besides those listed provided professional assistance, and that the conclusions in the report were developed in conformity with USPAP."*[366]

The overriding purpose of The Appraisal Foundation's *Uniform Standards of Professional Appraisal Practice* (USPAP) is to promote and maintain a high level of **public trust** and confidence in the appraisal profession and in the services provided by appraisers. The concept of public trust includes an appraiser-client relationship that requires the appraiser to provide more than just expertise. Public trust also places an ethical obligation upon the appraiser to act on behalf of the **public's interest** and not merely out of self-interest or the interest of the client.

The biennially-updated USPAP[367] publication contains ethical and performance requirements as well as related guidance to help appraisers of all disciplines (i.e., real property appraisers, personal property appraisers, and businesses and intangible asset valuators) practice at the highest level of professionalism when providing **appraisal** or **appraisal review** services. USPAP also provides the public, clients and other intended users of the report with a gauge with which to measure the competence of the appraiser and the professionalism of the appraiser's work product.

The development of USPAP in the late 1980s and its continued evolvement have significantly enhanced the role of the appraiser in society, but in so doing, USPAP has placed greater expectations as well as moral obligations on the appraiser to act in an ethical and competent manner, i.e., in a manner that promotes public trust and confidence in the profession of appraising and in appraisal practice.

USPAP Courses

Thanks to the Sponsoring Organizations of The Appraisal Foundation, there now exists 15-hour National USPAP Courses as well 7-hour National USPAP Update Courses for both the real property as well as personal property disciplines. The personal property versions of the courses focus on issues and examples relevant to personal property rather than to real property. Because of this, if you are a personal property appraiser, I would recommend that you attend the personal property version of these USPAP courses and not the real property versions.

USPAP Courses aid appraisers in all three disciplines of appraisal practice who seek competency in USPAP. Indeed, the 15-hour National USPAP Course as well as the biennial 7-hour USPAP Update Course is **required** for those real property appraisers who are subject to state licensing or certification.

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[366] For a further discussion of this issue, see the Chapter 13 section entitled *Is USPAP Compliance Determinant?*

[367] Appraisers must comply with the edition of USPAP in effect as of the date of the appraisal or appraisal review report. The effective date of the appraisal or appraisal review report has no bearing on which edition of USPAP applies. (2020-2021 USPAP FAQs #1 and #160)

Note that no such state requirements exist for personal or business property appraisers. Having said that, the courses **are** also needed by those personal property appraisers and business valuators who, though not subject to compliance by state requirements, **are** subject to USPAP educational requirements established by professional organizations of which they are members.

This chapter will greatly assist the appraiser in understanding USPAP which, in the US, is the only generally accepted standard for appraisers. This chapter will also help you to better understand the important role USPAP plays in protecting the public's trust in the appraisal profession by guiding appraisers to help ensure ethical and competent appraisal performance.

But this chapter is not a substitute for taking the 15-hour National USPAP Course and passing its associated one-hour exam. Nor is the 15-hour National USPAP Course a substitute for a book such as this. Doctors and accountants also have standards, but their standards do not teach doctors how to cure the ill or accountants how to balance corporate books. In a similar way, USPAP focuses on appraisal standards, but not on appraisal methodology/practices/techniques which is the focus of this book and of such other courses that address the fundamentals of appraising.

USPAP in its entirety can be found on the Internet at The Appraisal Foundation's website appraisalfoundation.org where USPAP can also be ordered in paper, PDF, eReader or Kindle format.

History of USPAP

To understand USPAP, it's helpful to know its history, but it is a history that relates nearly exclusively to the discipline of real property appraising. Historically, real property valuators have been needed so society could function: taxes needed to be levied, business conducted, and justice dispensed. While the appraisal profession's primary focus was initially on the appraisal of real property, and while the development of standards initially focused on real property appraisal issues, over time, the disciplines of personal property appraising as well as business property appraising were also incorporated into the development of appraisal standards.

The need for appraisal reform became apparent early in the 20th century with historical events that were aggravated by abuses in the real property appraisal profession. It began with the stock market crash of 1929, the resulting financial chaos and the subsequent Great Depression. Additional abuses of the public's trust occurred in the 1950s through 1970s regarding public-works, property taxation and federal housing programs; and much of the blame for the 1980s Savings and Loan crisis can be laid at the feet of incompetent and unethical real property appraisers. Today, the real property appraisal profession continues to be challenged by issues relating to mortgage scams, illegal property flipping, and appraisal report tampering.

Though much less visible than the real property appraiser and though having significantly less of an impact on the economy, the personal property appraisal profession has had its own share of issues, centering primarily on appraiser/dealer conflicts of interest and incompetence relating to product knowledge, appraisal methodology, and generally-accepted ethical and performance standards.

The following brief review should help you understand the problems in the area of ethics and competence still faced by the appraisal profession and of the ongoing need for USPAP.

Role of the Professional Appraiser Recognized

Prior to 1930, the focus of appraising was on the discipline of real property appraising, and at the time it was the real estate brokers and agents (not "professional appraisers") who undertook the task of valuing property. Their lack of ethical and performance standards, however, contributed greatly to the stock market crash of 1929. Ongoing faulty appraisals, costing the taxpayer billions of dollars, eventually led to the formation of appraisal societies beginning in the mid-1930s.

The primary goal of these societies was to establish qualifications and standards of professional practice for their memberships. By the 1960s, these organizations realized the importance of addressing certain critical issues. These issues included:

- The ability to provide credible appraisal services for the wellbeing of society
- A need for appraisal services that are carried out by ethical and competent practitioners
- A need for professional appraisal services that instill **public trust** in the individual appraiser as well as in the appraisal profession.

Development of the Appraisal Standards

In the 1980s leaders of several professional real property appraisal organizations recognized the need for a common set of standards for the professional appraisal practice as well as a need for a system capable of enforcing those standards.

Those organizations (eight in the United States together with the Appraisal Institute of Canada) formed what is known as the "Ad-Hoc Committee" with the aim of developing professional appraisal standards. Those standards would eventually become the *Uniform Standards of Professional Appraisal Practice* (USPAP).

But in order for their work in developing USPAP to be recognized and accepted by the public, the Ad-Hoc Committee recognized that a new organization would be required which would have independent authority over the standards. Such an organization would place the public's interest ahead of any other constituency, including the Ad-Hoc Committee members themselves.

Accordingly, in 1987 the Ad-Hoc Committee established The Appraisal Foundation (TAF), which included the creation of three boards: the Board of Trustees, the Appraiser Qualifications Board (AQB), and the Appraisal Standards Board (ASB). (A fourth board, the Appraisal Practices Board (APB), was activated in 2010.) USPAP was created with the express purpose of promoting and preserving public trust in professional appraisal practice.

Even though there are different asset types (real property, personal property and business property) all appraisal disciplines were included in USPAP in order to establish one set of standards for the entire appraisal profession. The responsibility of maintaining trust and confidence in professional appraisal practice is the task of the AQB, ASB and APB, with support from the sponsoring organizations (see below) of The Appraisal Foundation.

USPAP's underlying precept is that the concept of trust obligates the appraiser to act in the public's best interest. Acting in the public interest requires the appraiser to act in an ethical and

competent manner which is characterized by the attributes of independence, impartiality, experience, specialized knowledge and integrity.

Only by acting in such a manner can the profession be assured of maintaining the public's trust.

Governmental and Public Acceptance of USPAP

Congress contributed to USPAP's acceptance by identifying USPAP as the generally recognized standards of practice in the appraisal profession. This was done via Title XI (the "Real Estate Appraisal Reform Amendments") of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), also known as the "S&L Bail-Out Bill."

Title XI established the Appraisal Subcommittee (ASC) and gave it the authority to oversee and monitor the activities of The Appraisal Foundation, its boards, and state programs for licensing and certifying **real property** appraisers. It also gave the ASC authority to enforce USPAP among real property appraisers. Title XI also authorized the federal financial institutions regulatory agencies (including the Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, Office of Thrift Supervision, and the National Credit Union Administration) to adopt regulations regarding real property appraisals made in connection with Federally Related Transactions (FRTs), including 1) when appraisals are required, 2) who must perform the appraisals, and 3) the manner in which appraisals must be performed.

Title XI of FIRREA provided recognition of USPAP and authorized federal financial institution regulatory agencies to reference USPAP in their regulations. Interestingly, as alluded to, TAF was originally designated by the ASC to be the overseer of standards involving **only** Federally Related Transactions for real property within the U.S. TAF has never been authorized by Congress to establish and maintain any standards beyond those regarding U.S. real property FRTs. Technically, then, according to the original mandate, compliance with USPAP for appraisals not involving FRTs is voluntary, though encouraged. (But note that many real estate appraisal clients are hiring non-USPAP-trained real property appraisers (because it is cheaper to do so) for the many real estate appraisals that do not involve FRTs.) But despite its initial limitation to FRTs, over the years USPAP has evolved to become the only nationally-recognized standard in the U.S. not just for FRTs but also for all appraisal assignments in all three appraisal disciplines including real property, personal property and business valuations. Regarding personal property appraisals, most professional personal property appraisers as well as all major personal property appraisal organizations recognize the importance of USPAP to the appraisal profession and support the requirement for compliance with the standards of USPAP.

The authority of USPAP currently extends well beyond the FRT mandate of Title XI of FIRREA:

- The Executive Branch followed Congress by referencing USPAP in the Uniform Relocation Assistance and Real Property Acquisition Policies Act.

- Since 1993, the Office of Management and Budget (OMB) has required federal land acquisition and direct lending agencies to use real property appraisals prepared in conformance with USPAP.

- Private industry groups such as Fannie Mae, Freddie Mac, Farmer Mac, the Farm Credit Administration, and the Employee Relocation Council also referenced USPAP and

integrated the standards in their policies.

- The U.S. Marshals Service states "*Any organization affiliated with The Appraisal Foundation should be considered to be a reliable source when appraising either real or personal property.*"

- Public Law 109-280 (*Pension Protection Act of 2006* (PPA)) generated new Treasury Regulations that specify USPAP as the recognized standard for appraisers undertaking assignments for the intended use of noncash charitable contribution of property for which a deduction of more than $5,000 is claimed on returns. Specifically, new Regulation §1.170A-17(a) defines a "qualified appraisal" as one prepared by a qualified appraiser following generally accepted appraisal standards which are those that

  > *...comply with the substance and principles of the Uniform Standards of Professional Appraisal Practice, as developed by the Appraisal Standards Board of The Appraisal Foundation.*

- Many other governmental agencies, professional organizations and client groups have also adopted, implemented, or otherwise referenced USPAP.

- Recognition of USPAP by users of professional appraisal services in other sectors of commerce and in the international arena continues to increase.

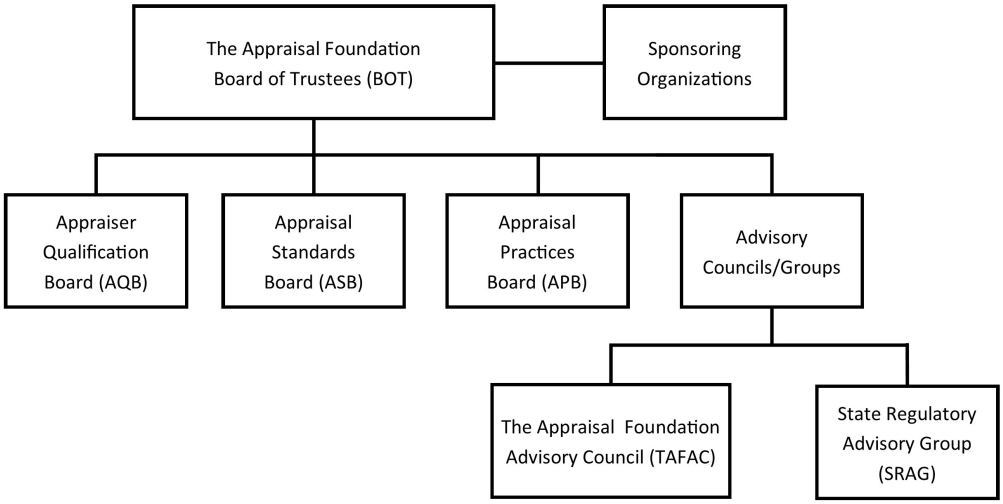
- All major professional associations of personal property appraisers require that their members write appraisals in accordance with USPAP.

The Appraisal Foundation (TAF)

Overseen by the Appraisal Subcommittee,[368] The Appraisal Foundation is a private entity and not a governmental agency. Neither is it an appraisal organization nor does it have any members. The Appraisal Foundation is comprised of four **boards** (Board of Trustees, Appraisal Standards Board, Appraiser Qualifications Board, and the Appraisal Practices Board). It is also advised by and receives input from various councils and groups.

[368] Among other real property appraisal-related responsibilities, the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (FFIEC) monitors States and the certifying and licensing of real estate appraisers, maintains a national registry of state certified and licensed real property appraisers, and monitors the activities of The Appraisal Foundation. Below is more about the Appraisal Subcommittee in the section entitled *Appraisal Subcommittee (ASC).*

The below organizational flow chart pertains to the sections that follow:



TAF Has No Legal Authority

Neither the Foundation nor its Boards has legal authority in any jurisdiction. USPAP achieves legal authority and is enforceable by being adopted, cited or implemented by governmental agencies such as by the various **state regulatory agencies**.[369] USPAP also achieves authority through private contract. In other words, a client can require USPAP compliance or an appraisal society can require its members to comply with USPAP.

TAF Boards

Board of Trustees (BOT) has three primary functions:

- Providing financial support for the work of the AQB, ASB and the APB
- Appointing members to the AQB, ASB and the APB
- Monitors the performance of and oversees the activities of the AQB, ASB and the APB

Appraiser Qualifications Board (AQB) is an independent board of The Appraisal Foundation. The AQB establishes the minimum education, experience and examination requirements required for the licensing, certification and recertification of qualified real property appraisers.

In addition, the AQB performs a number of ancillary duties related to real property and personal property appraiser qualifications including:

- Establishing the **required** qualification criteria for state licensing, certification and recertification of **real estate** appraisers. FIRREA mandates that all state certified appraisers must meet the minimum educational, experience and examination

[369] Note that personal property appraisers are **not** subject to state licensing or certification.

requirements promulgated by the AQB

- Establishing **voluntary** educational and experience qualification criteria for the **personal property** appraiser
- Disseminating real property appraiser qualifications to states, government entities and others
- Administering the 15-hour National USPAP course (both real property version and personal property version) and the 7-hour National USPAP Update Course
- Certifying national USPAP Course instructors
- Maintaining the National Course Approval Program (CAP)—a voluntary program providing a minimum level of acceptance for real estate appraisal education courses to ensure they meet the *Real Property Appraiser Qualification Criteria.*[370]

Appraisal Standards Board (ASB) is an independent board of The Appraisal Foundation. The ASB develops, promulgates, interprets and amends the *Uniform Standards of Professional Appraisal Practice*. In so doing, it sets forth the rules for developing an appraisal or appraisal review assignment and reporting the resulting opinions or conclusions.

The ASB also publishes guidance in the form of "other communications" including Advisory Opinions and Frequently Asked Questions which are bound together with USPAP for convenience. When USPAP is bound together with these "other communications," the resulting book is referred to as the **USPAP publication**.

Appraisal Practices Board (APB) offers voluntary guidance on emerging issues regarding appraisal methods and techniques in all valuation disciplines including real, personal and business property. Because the majority of licensed and certified real property appraisers do not belong to a professional society, they have limited access to guidance. Timely guidance offered by the APB helps to overcome this shortcoming.

The genesis of the APB was the collapse of the housing market in 2008, and to-date, the APB has focused on only real property appraising issues. In 2012 the President of TAF President David stated:

> *The APB does not have any Congressional authority and adherence to the guidance is strictly voluntary; the APB does not operate with any public/grant funds; APB Valuation Advisories do not establish new valuation methods or techniques (rather, they are a compilation of existing valuation methods and techniques); and APB Valuation Advisories are available to anyone at no cost.*

TAF Sponsors

The work of TAF is supported by two types of sponsors that provide professional input as well as financial assistance:

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[370] Note that there is no mechanism for the AQB to review or approve non-real property educational courses.

- **Appraisal Sponsors** are non-profit appraisal organizations serving appraisers. As of this writing there are three personal property appraisal organizations that are Sponsoring Organizations of The Appraisal Foundation: the American Society of Appraisers (ASA), the International Society of Appraisers (ISA) and the Appraisers Association of America (AAA).

- **Affiliate Sponsors** are other non-profit U.S. organizations having an interest in appraising.

- **International Sponsors** are non-profit based outside of the U.S. with an interest in valuation

TAF Advisory Councils and Groups

TAF is also supported by advisory groups made up of non-profit as well as for-profit organizations having an interest in appraisal standards.

- **The Appraisal Foundation Advisory Council (TAFAC)**. The Appraisal Foundation Advisory Council (TAFAC) is composed of non-profit organizations and government agencies which represent appraisers, users of appraisal services and government agencies. TAFAC serves to involve the public in the appraisal standards and in the appraiser qualifications development process.

  Member organizations of TAFAC represent various professions and occupations. TAFAC currently includes organizations representing appraisers, home builders, real estate brokers, financial institution regulators, federal land acquisition agencies, the secondary mortgage market and the private mortgage insurance industry.

  TAFAC makes recommendations to the Appraisal Standards Board, Appraiser Qualifications Board, Appraisal Practices Board and Board of Trustees on major issues pending before the Boards. In addition, recommendations are also made regarding the agenda of projects, the selection of task forces, amendments to the *Uniform Standards of Professional Appraisal Practice* and to the STANDARDS or Advisory Opinions under development by the ASB. TAFAC also makes recommendations regarding revisions to the AQB's Appraiser Qualification Criteria.

- **Industry Advisory Council (IAC)**. The IAC is an advisory council which provides for-profit entities an opportunity to provide advice and counsel to The Appraisal Foundation. Members of the IAC include lending institutions, accounting firms, appraisal companies, insurers, brokerage firms, pension funds, investment bankers, relocation companies and others with an interest in valuation.

State Regulator Advisory Group (SRAG)

In an effort to establish a direct link to the regulators who implement the work of the ASB and the AQB at the state level, The Appraisal Foundation formed a State Regulator Advisory Group. This group serves as a resource to the Foundation Boards on such issues as:

- Identifying disciplinary related USPAP issues that should be incorporated into revisions to the 7-hour National USPAP Update Course.

- Addressing enforcement and regulatory issues relating to USPAP and the Real Property Appraiser Qualification Criteria.

- Ensuring that the Real Property Appraiser Qualification Criteria continues to reflect current capabilities and expectations of the marketplace regarding distance education.

Appraisal Subcommittee (ASC)

The ASC's mission is to ensure that real property appraisers who perform appraisals in real estate transactions that could expose the United States government to financial loss are sufficiently *trained* and *tested* to assure *competency* and *independent judgment* according to *uniform* high professional *standards* and *ethics*.

The ASC is not a part of The Appraisal Foundation but was established as a result FIRREA (see below) and the Savings and Loan Crisis of the 1980s. The ASC has authority from Title XI of FIRREA to oversee, monitor and supervise the activities of state regulatory boards and appraisers, and the TAF (including the AQB, the ASB and the APB), regarding real property issues. The ASC makes an annual report to Congress.

A Commerce, Consumer, and Monetary Affairs Subcommittee of the Committee on Government Operations report issued in 1986 concluded that: *"Faulty and fraudulent [real property] appraisals were widespread and that abusive appraisals constituted a prominent factor in the insolvency of hundreds of financial institutions as well as contributing to billions of dollars of losses to the federal deposit insurance funds, [the Veterans Administration], and [the Federal Housing Administration], to private lenders and mortgage insurers, as well as to issuers of and investors in mortgage-backed securities."*

These facts, among other things, led Congress, in August 1989, to enact the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, better known as FIRREA or the "Savings and Loan Bail-Out Bill."

Title XI of FIRREA, known as the "Real Estate Appraisal Reform Amendments," was specifically targeted at solving the appraisal-related problems discussed in prior Congressional testimony. In general, Title XI of FIRREA required federally-regulated financial institutions (such as federally-insured banks, thrifts and credit unions) to use state certified or licensed appraisers to perform real property appraisals in connection with federally-related transactions.

Title XI created a unique, complementary relationship between the states, the private sector (essentially The Appraisal Foundation), and the federal government. Title XI recognized that the states were in the best administrative position to certify and license real property appraisers and to supervise/enforce their appraisal-related activities. Title XI authorized The Appraisal Foundation and its boards to establish uniform minimum real property appraiser qualifications standards and uniform standards of professional appraisal practice which would be applied and enforced by the states.

Title XI then created the Appraisal Subcommittee (ASC) to oversee the activities of the states as well as of The Appraisal Foundation and its boards. All ASC operations, including Title XI-

related functions of The Appraisal Foundation, are funded by state certified or licensed real property appraisers, each of whom pays a $40 (increased from $25 effective January 1, 2012) annual National Registry fee to the ASC. The ASC manages grants to The Appraisal Foundation that are used to support, in part, the real property related work of the AQB, the APB and the ASB.

FIRREA established the ASC within the Federal Financial Institutions Examination Council (FFIEC). The FFIEC is a formal interagency body empowered to prescribe uniform principles, standards, and report forms and to make recommendations to promote uniformity in the supervision of financial institutions. Bank examiners working for federal banking agencies follow FFIEC principles and standards in their examination of financial institutions.

The Chairperson of the ASC is appointed by the FFIEC. The ASC has six members, each designated by the head of his or her agency, and represent the Board of Governors of the Federal Reserve System (FRB), the Office of the Comptroller of the Currency (OCC), the Office of Thrift Supervision (OTS), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), and the Department of Housing and Urban Development (HUD).

State Agencies Are Responsible for Licensing and Certifying Real Property Appraisers

This section contains material regarding state licensure, certification and enforcement applying **only** to real property appraisers; however, it is important that all appraisers (including personal property appraisers) have an understanding of the interrelation between the private sector and the states as it relates to licensing and certifying real property appraisers and to the enforcement of USPAP compliance among real property appraisers.

While the AQB and ASB exercise all authority for **establishing** the qualification criteria and the standards of practice for the appraisers, neither they, nor TAF, have any authority to license or certify real property appraisers, or to **enforce** compliance with USPAP. Those powers lie solely with individual states, each of which has its own licensing and certification laws and regulations regarding real property appraisers.[371] State regulatory agencies have the responsibility to administer and enforce their respective real property appraisal laws within their respective jurisdictions. State officials belong to the Association of Appraisers Regulatory Officials (AARO).

Because of USPAP, state regulatory agencies are better able to enforce compliance among real property appraisers and discourage those who would otherwise abuse the public trust that is essential for the wellbeing of our society. This public trust is based on a confidence that the appraiser's opinions will be provided in an independent, competent and ethical manner so that they are meaningful and credible to the intended users of the report.

Purpose of USPAP

The purpose of USPAP is to promote and maintain public trust in the appraisal profession by developing minimum requirements (i.e., definitions, ethical practices, rules, methodology, etc.) for professional appraisal practice. These minimum requirements standardize:

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[371] Remember, there are no requirements, laws or regulations for licensing or certification of **personal property appraisers**.

- The **development** of opinions, conclusions and analyses related to an appraisal or appraisal review assignment. The relevant parts of USPAP indicate what an appraiser should consider during the development phase including:
    - When initially accepting an appraisal or appraisal review assignment,
    - When identifying the assignment problem,
    - When determining the scope of work that must be performed in order to develop credible assignment results,
    - While actually performing that scope of work.
- The **reporting** of the results of the appraisal or appraisal review assignment to the client. The relevant parts of USPAP indicate what an appraiser should do when:
    - Preparing either a written or oral appraisal report, or
    - Preparing either a written or oral appraisal review report regarding an appraisal report or an appraisal review report that was prepared by another appraiser.

Taken together, the development phase combined with the reporting phase is referred to as the **Appraisal Process**.

Beneficiaries of USPAP

There are two categories of people who benefit from USPAP: appraisers who provide appraisal practice services and users of those services:

- **Appraisers** benefit by USPAP's generally-accepted requirements and guidance because they provide appraisers with a benchmark by which appraisers can establish and evaluate their level of performance and credibility.
- **Users** benefit by having a basis to understand what to expect from appraisers and by having a means by which to gauge the performance of those providing appraisal practice services.

Assignment Types Governed by USPAP

The *Uniform Standards of Professional Appraisal Practice* is a comprehensive standard that guides today's professional appraisal practice regardless of discipline—personal property, real property, or business property. Specifically, USPAP addresses requirements relating to the two assignment **types** encountered by the appraiser: **appraisals** and **appraisal reviews**. USPAP also applies to **other types of valuation services** performed by an appraiser, as well. See below for examples of "other services."

- In an **appraisal**, one holding him- or herself out to be an appraiser develops and communicates an opinion of value. USPAP defines *Appraisal* as:

> *APPRAISAL: (noun) the act or process of developing an opinion of value; an opinion of value. (adjective) of or pertaining to appraising and related functions such as appraisal practice or appraisal services.*
>
> *Comment: An appraisal is numerically expressed as a specific amount, as a range of numbers, or as a relationship (e.g., not more than, not less than) to a previous value opinion or numerical benchmark (e.g., assessed value, collateral value).*

- **Appraisal review** is the act or process of critically studying a report (i.e., either an appraisal report or an appraisal review report) prepared by another appraiser, and of communicating an opinion about the quality of the other appraiser's work. USPAP defines *Appraisal Review* as:

  > *APPRAISAL REVIEW: (noun) the act or process of developing an opinion about the quality of another appraiser's work (i.e., a report, part of a report, a workfile, or some combination of these), that was performed as part of an appraisal or appraisal review assignment; (adjective) of or pertaining to an opinion about the quality of another appraiser's work that was performed as part of an appraisal or appraisal review assignment.*

- **Other valuation services when acting as an appraiser.** Appraisers provide many types of valuation services other than appraisals and appraisal reviews. Note that valuation services other than appraisals and appraisal reviews are still considered "appraisal practice" when they are being performed by an appraiser. As such, these other valuation services require the appraiser to comply with the below-mentioned **general obligations** of USPAP.[372]

  Examples of "other services" provided while acting as an appraiser might include teaching appraisal courses or seminars, writing a book about appraising, collecting market data for comparable sales, inspecting the subject property on behalf of a colleague, estimating accrued depreciation, or analyzing specific elements of value such as provenance, author or country of origin.

Property Types Governed by USPAP

USPAP has STANDARDS that apply to every type of property capable of being owned—specifically to real property, personal property, and business enterprises and intangible assets.

- STANDARDS 1 *Real Property Appraisal, Development* and *2 Real Property Appraisal, Reporting* address the appraisal of **real property**, i.e., land and improvements to land such as the addition of structures or other types of improvements.

- STANDARDS 3 *Appraisal Review, Development* and 4 *Appraisal Review, Reporting* apply to appraisal reviews, i.e., the review of the work of another appraiser. Personal

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[372] These services are other than appraisals and appraisal reviews; consequently, none of the STANDARDS 1 through 10 apply. Regardless, because these other valuation services are part of "appraisal practice," appraisers are still required to comply with the general obligations of USPAP, if not any of the STANDARDS.

property appraisers can be called upon to perform appraisal reviews.

- STANDARDS 5 *Mass Appraisal, Development* and 6 *Mass Appraisal, Reporting* apply to mass appraisals, i.e., the systematic appraisal of large groups of properties as of a given date using standardized procedures and statistical testing. Mass appraisals are used in the appraisal of real property but are seldom used by the personal property appraiser.

- STANDARDS 7 *Personal Property Appraisal, Development* and 8 *Personal Property Appraisal, Reporting* apply to the appraisal of **personal property**. The valuation of personal property is fundamentally different from the valuation of real property. Unlike real property, personal property is portable and, therefore, has various market levels (e.g., retail market, orderly liquidation and wholesale market levels).

- STANDARDS 9 *Business Appraisal, Development* and 10 *Business Appraisal, Reporting* apply to the appraisal of **interests in business enterprises and intangible property** such as goodwill, patents, copyrights, options, franchises, etc.

USPAP Structure

USPAP is made up of the following five parts which guide the appraiser as to proper **ethical behavior** as well as to **competent performance**. Together, the parts promote and preserve public trust in the appraisal profession by establishing a common foundation for appraisal practice regardless of the discipline, i.e., whether the subject property be real property, personal property, or business property. Here is a brief outline of the USPAP parts. We will discuss each of them in more detail as we proceed through this chapter:

- DEFINITIONS
- PREAMBLE
- RULES
    - ETHICS RULE
        - Conduct section
        - Management section
        - Confidentiality section
    - RECORD KEEPING RULE
    - COMPETENCY RULE
    - SCOPE OF WORK RULE
    - JURISDICTIONAL EXCEPTION RULE
- STANDARDS 1 through 10, each with their respective Standards Rules (SR)

- Statements on Appraisal Standards (SMT)[373]

General Requirements and Performance Requirements

The above parts of USPAP comprise the **general requirements** (not to be confused with the general "obligations" mentioned earlier) as well as discipline-specific and assignment-type-specific **performance requirements**.

- The **general requirements** manage issues pertaining both to **ethical behavior** and **competence**:

    1. General requirements parts pertaining to **ethical behavior** include:

        - PREAMBLE
        - ETHICS RULE

    2. General requirements parts pertaining to **competence** include:

        - DEFINITIONS
        - RECORD KEEPING RULE
        - COMPETENCY RULE
        - SCOPE OF WORK RULE
        - JURISDICTIONAL EXCEPTION RULE

- **Performance requirements** (i.e., the ten STANDARDS) are actually elaborations on the above ethical and competency requirements. The performance requirements cover the **development phase** as well as the **reporting** phase of the appraisal process. Performance requirements are specific to the various disciplines (i.e., real, personal or business property) and to the various types of appraisal assignments (i.e., appraisals or appraisal reviews).

  The **personal property** performance requirements are found in four of the ten USPAP STANDARDS.[374] Note that STANDARDS 7 and 8 contain the rules for developing and reporting a personal property **appraisal** assignment. But personal property appraisers may also be called upon to conduct **appraisal reviews**. The requirements for appraisal reviews (regardless of the discipline) are contained in STANDARDS 3 and 4:

    - STANDARD 3 *Appraisal Review, Development*

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[373] In the past, Statements on Appraisal Standards (SMT) have provided clarification, interpretation, explanation and elaboration on USPAP. Currently, are no active SMTs.

[374] Technically, personal property related performance requirements also include STANDARDS 5 *Mass Appraisal, Development* and 6 *Mass Appraisal, Reporting* which pertain to the development and reporting of Mass Appraisals. However, personal property mass appraisals are typically done by governmental tax assessors and not by fee appraisers such as are most personal property appraisers.

- STANDARD 4 *Appraisal Review, Reporting*
- STANDARD 7 *Personal Property Appraisal, Development*
- STANDARD 8 *Personal Property Appraisal, Reporting*

We will discuss the above four personal property-related USPAP STANDARDS in some detail later in this section. We will then briefly cover the remaining STANDARDS which relate to disciplines other than personal property. Those remaining STANDARDS include:

- STANDARD 1 *Real Property Appraisal, Development*
- STANDARD 2 *Real Property Appraisal, Reporting*
- STANDARD 5 *Mass Appraisal, Development*
- STANDARD 6 *Mass Appraisal, Reporting*
- STANDARD 9 *Business Appraisal, Development*
- STANDARD 10 *Business Appraisal, Reporting*

USPAP Compliance Requirements

In this section, I briefly introduce you to the subject of the appraiser's USPAP requirements to comply with the **general** obligations as well as with the **additional** obligations of USPAP. I will immediately follow with an introductory discussion regarding USPAP obligations that are involved when other appraisers are assisting the primary appraiser with an appraisal assignment.[375]

General Obligations of USPAP

The **general obligations** of USPAP must be complied with whenever one who is "performing as an appraiser" undertakes appraisal practice assignments whether it be appraisals or appraisal reviews, or whether performing certain "other valuation services" that, when done by an appraiser, also fall within appraisal practice (see below for examples).

The **general obligations** with which all appraisers must comply whenever performing appraisal practice consist of requirements contained in the following parts of USPAP:

- DEFINITIONS
- PREAMBLE
- ETHICS RULE

[375] See the below two sections in this Chapter entitled *When Must an Appraiser Comply with USPAP?* And *Does USPAP Apply?* for additional discussions regarding the appraiser the appraiser's USPAP compliance requirements.

- COMPETENCY RULE
- JURISDICTIONAL EXCEPTION RULE

Additional Obligations of USPAP

In addition to the above general obligations, whenever the appraiser performs specifically either an **appraisal** or **appraisal review** assignment, the appraiser **must also** comply with these **additional** obligations:

- The RECORD KEEPING RULE,
- The SCOPE OF WORK RULE, and
- Whichever of these STANDARDS are relevant to the assignment at hand:
    - For real property appraisals, STANDARDS 1 *Real Property Appraisal, Development* and 2 *Real Property Appraisal, Reporting*
    - For appraisal reviews, STANDARDS 3 *Appraisal Review, Development* and 4 *Appraisal Review, Reporting*
    - For mass appraisals, STANDARDS 5 *Mass Appraisal, Development* and 6 *Mass Appraisal, Reporting*
    - For personal property appraisals, STANDARDS 7 *Personal Property Appraisal, Development* and 8 *Personal Property Appraisal, Reporting*
    - For business property appraisals, STANDARDS 9 *Business Appraisal, Development* and 10 *Business Appraisal, Reporting*

Other Services

"Other valuation services" (i.e., other than appraisals and appraisal reviews) that would also fall under appraisal practice would include, for example, teaching appraisal courses and seminars, inspecting the subject property, writing appraisal texts, researching comparable sales data, rating a property's quality or condition, or analyzing specific elements of value such as provenance, author or country of origin. When performed by an appraiser, these other valuation services are considered appraisal practice.

It is worth repeating that for such "other" types of appraisal practice services, the **additional obligations**[376] would **not** apply (because they apply only to **appraisals** and **appraisal reviews**); however, the appraiser would still be required to comply with the above **general obligations** of USPAP because the general obligations apply to **all** types of appraisal practice services—not just to appraisals and appraisal reviews.

[376] The **additional obligations** include the RECORD KEEPING RULE, the SCOPE OF WORK RULE, and STANDARDS 1 through 10.

Performing Outside the Role of an Appraiser[377]

By the way, some valuation services are performed by one who is known by the public to be an appraiser while he or she is working **outside** the role of an appraiser such as while performing as an antiques dealer, jewelry store owner, auctioneer or an estate liquidator. As an example, the dealer/appraiser might make an offer to purchase an item brought in to the dealer's store by a would-be seller. In this scenario, although known to be an appraiser, the dealer is performing a valuation service while performing in a capacity other than an appraiser[378] and, as a result, is not bound by USPAP other than by the ETHICS RULE which states:

> *An appraiser must not misrepresent his or her role when providing valuation services that are outside of appraisal practice.*

Assignments Involving Assistance From Others

What happens when another appraiser or a non-appraiser provides assistance to the primary appraiser? Do USPAP obligations apply to that appraiser? to the non-appraiser? Must either be mentioned in the appraisal report by the primary appraiser? Must they themselves keep records of the assistance they provided to the primary appraiser?[379]

USPAP obligations, if any, are dependent on whether or not the assisting individual is an "appraiser" and (if he or she **is** an appraiser) whether or not the assistance provided was "appraisal" assistance **and** whether or not the assistance provided could be considered "significant."

USPAP defines *Significant Appraisal Assistance* in an appraisal or appraisal review assignment as:



> *SIGNIFICANT APPRAISAL ASSISTANCE: appraisal-related help, provided by another appraiser, that is substantial enough to have affected the development of the assignment results.*

Disclosing Significant Appraisal Assistance Provided by Others

Assistance provided by another individual can come in many forms from either other bona fide, educated and trained appraisers, or from non-appraisers who, while having significant product knowledge in their specialty area, lack appraisal competency.

But when the assistance is provided by another **appraiser** and it rises to the level of being **significant** in nature, then USPAP requires that the assisting appraiser either co-sign the report's

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[377] See the section entitled *When Must an Appraiser Comply with USPAP?* later in this chapter for an additional discussion regarding USPAP compliance including in instances when the appraiser is performing outside the role of an appraiser.

[378] The individual is performing as a dealer acting in his or her own best interest, and not as an unbiased appraiser.

[379] This book contains other discussions regarding assistance provided by other appraisers and specialists in the Chapter 3 section entitled *Relying on Information Provided by Others*, in the Chapter 5 section entitled *Using Specialist Appraisers and Other Colleagues* and in the Chapter 9 section entitled *More Than One Appraiser*.

USPAP certification, or, **if not co-signed**, that the primary appraiser address the significant appraisal assistance that was provided within the appraisal report in two locations, to wit:



- The USPAP certification requires that the name of each appraiser providing significant personal property appraisal assistance be stated in the certification.

- State the extent of the significant appraisal assistance that was provided in the appraisal report.



Although a certification must contain the names of individuals providing significant personal property appraisal assistance, it is not required that a summary of the extent of their assistance be located in a certification. This disclosure may be in any part(s) of the report. (Comment to SR 8-3(c)(ii)).

Disclosing Significant Appraisal Assistance Provided by Others in an Oral Report

The RECORD KEEPING RULE of USPAP requires that the workfile contain a summary of all oral reports as well as a signed and dated USPAP certification statement. In addition, USPAP's Standards Rule 8-4 *Oral Appraisal Report* requires than an oral appraisal report address (to the extent possible and appropriate) the substantive matters set forth for an Appraisal Report option as noted in Standards Rule 8-2(a).

Accordingly, in the case of an oral appraisal assignment the signing appraiser must disclose the name of the assisting appraiser in the certification, and the appraiser must also disclose the extent of the assistance provided within the assignment summary. Both the certification and the assignment summary are retained in the assignment workfile. (2020-2021 USPAP FAQ #281)

Minor vs. Significant Assistance

But what is considered to be **significant** personal property appraisal assistance? As noted in the above USPAP definition, in order to rise to the level of being significant, the assistance must have been substantial enough to have affected the development of the assignment results.

Assume I am making use of the results of an inspection performed by another appraiser. If the inspecting appraiser is only providing factual data (such as quantity, size, materials, photographs) then significant assistance has not been provided. However, if the signing appraiser relies upon the other appraiser's opinions or conclusions (such as opinions of quality, condition, comparability to other like items), then the inspecting appraiser would be considered as having provided significant personal property appraisal assistance. (2020-2021 USPAP #293)

Or perhaps the assisting appraiser merely makes a suggestion regarding additional research efforts, assists in photographing and measuring objects, provides clerical assistance, or simply suggests relevant data resources (e.g., price guides, auction records or online Internet databases of past sales, other specialists) to the primary appraiser. Such assistance is also not "significant," so the assisting appraiser need not be identified in the report's USPAP certification and the assistance provided need not be disclosed in the appraisal report. Having said that, there is nothing that would prevent the primary appraiser from including such information in the appraisal report if he or she feels doing so would make the report more understandable or more credible.

On the other hand, perhaps the assistance provided contributed in a **noteworthy** way to the development of the assignment results. Such might be the case if the assisting appraiser participated in the selection and analyzing of appropriate comparable sales or other relevant data, or the analysis of the relevant marketplace, or the inspection and identification (or even authentication) of the subject property and/or of comparable properties. Help from other appraisers in the form of significant assistance might even include providing the value opinions themselves for those items in which the assisting appraiser specializes. All such examples of assistance involve the providing of opinions and or conclusions which **would be** considered to be **significant appraisal assistance**. As noted above, these examples of significant personal property appraisal assistance must be documented in the appraisal report's scope of work statement, and the identity of the assisting appraiser must be disclosed in the USPAP certification as well.

Assisting Appraiser's USPAP Obligations

When retained to assist in developing an assignment, the assisting appraiser must determine whether or not the service he or she provided rises to the level of an "appraisal" or an "appraisal review."[380]

Assistance that **does** rise to the level of an appraisal or appraisal review would require that the assisting appraiser comply with USPAP requirements including the above-mentioned **general obligations** as well as the relevant STANDARDS, the SCOPE OF WORK RULE and the RECORD KEEPING RULE. Such a service would then be deemed "significant appraisal assistance" and would require:

- The assisting appraiser to either sign the USPAP certification or to be identified by the primary appraiser in the report's USPAP certification, and

- The assisting appraiser to comply with USPAP's RECORD KEEPING RULE regarding workfiles and workfile retention.

  Such record keeping requirements can be met by the primary appraiser simply making a copy of the workfile for all appraisers involved with the assignment. As an alternative, workfile access arrangements can be made whereby all involved appraisers have access to a workfile that is stored at the primary appraiser's location.

- Note what USPAP states regarding this matter:

  In an assignment that includes only assignment results developed by the personal property appraiser(s) from the same personal property specialty, any appraiser(s) who signs a certification accepts full responsibility for all elements of the certification, for the assignment results, and for the contents of the appraisal report. In an assignment involving appraisers with expertise in different specialties (e.g., antiques, fine art, or machinery and equipment), an appraiser who signs the certification may accept responsibility only for the elements of the certification, assignment results, and report contents specific to the appraiser's specialty. The role of each appraiser signing the certification must be disclosed in the report. (Comment to USPAP SR 8-3(b))

[380] By USPAP definition, it would be considered an "appraisal" if the assistance provided included developing an **opinion of value**.

Assistance **not rising** to the level of an appraisal or appraisal review would not carry with it any USPAP obligations whatsoever for the assisting appraiser. However, the assistance might still be deemed "significant" by the primary appraiser in which case, though not required to identify the assisting appraiser in the USPAP certification, the primary appraiser should describe the assistance provided in the appraisal report's scope of work statement. Doing so will better enable the reader to understand how the primary appraiser came to his or her opinions or conclusions.

Appraiser vs. Non-Appraiser

Only **appraisers** are capable of providing significant **appraisal** assistance. Non-appraisers (who by definition can provide only **non-appraisal** related assistance)—regardless of the type or extent of services provided—need **not** be identified in the USPAP certification because **USPAP applies only to appraisers**.

> *"… the reference to "appraisal assistance" means that the contribution is related to the appraisal process or requires appraiser competency. One misconception is that non-appraisers who provide assistance should be identified in the certification. This is incorrect because the certification requirements in USPAP apply only to appraisers. Thus, only appraisers sign the certification or are identified as providing significant appraisal assistance…"* (2020-2021 USPAP FAQ #278)

For example, the use of an antique glass dealer/specialist (who is not also an appraiser) to help identify and date a piece of Victorian art glass would **not** be considered significant appraisal assistance because the specialist is not an appraiser—he or she is an antiques dealer. Though such a non-appraiser would not be identified in the USPAP certification as having provided significant **appraisal** assistance, a reference to the assistance provided by such non-appraisers could be made elsewhere in the report (such as in the scope of work statement) if the primary appraiser feels that doing so will make the report more understandable.

By the way, another example of a non-appraiser providing assistance with an assignment would be a secretary, assistant or service provider simply performing clerical tasks such as transcribing an appraiser's notes or audio recordings, or entering information into an appraisal form, database or an appraisal software application. Such clerical type of assistance need not be addressed in either the certification or in the scope of work as it does not require appraisal competency.[381]

Supplemental reading:

- USPAP Advisory Opinion 31 *Assignments Involving More than One Appraiser*

DEFINITIONS

The DEFINITIONS section contains terms as used in USPAP appraisal assignments and appraisal review assignments. USPAP defines selected terms in its DEFINITIONS section in order to clarify the meaning of certain words or phrases found in USPAP but not found in popular English dictionaries. It is essential that the appraiser understands these DEFINITIONS in order to understand USPAP. The terms in the USPAP DEFINITIONS section are significant because as part of USPAP they **are enforceable**.

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[381] For related discussions, see the Chapter 5 section entitled *Contingent Appraisals* and the Chapter 12 section entitled *Assignment Workfiles.*

DEFINITIONS provided in USPAP are specific and peculiar to USPAP and **are not necessarily consistent with those definitions developed by professional appraisal organizations or individual authors**.

Certain terms, such as *Assignment* are commonly used in society but have a unique meaning when used in connection with USPAP. Other terms are unique to USPAP such as *Extraordinary Assumption* and *Hypothetical Condition* and are not commonly used elsewhere.

While USPAP makes heavy use of the term *Market Value*, USPAP only discusses it as a general concept. Even though the term is in the DEFINITIONS section, USPAP technically does not define *Market Value* per se (other than to note certain market value characteristics) because there already exists a variety of definitions for the term from a number of sources such as the IRS and various legal jurisdictions.[382]

Some value terms that are frequently used by the personal property appraiser are not defined in USPAP's DEFINITIONS. Included are such often-encountered terms as *fair market value*, *replacement value*, *marketable cash value, forced liquidation value, orderly liquidation value, scrap value, loss-of-value, net value, actual cash value* and others.

USPAP DEFINITION terms impacting the personal property appraiser include the following. (Related terms also found in the USPAP DEFINITIONS are underlined.) Refer to the DEFINITIONS section of the current edition of USPAP for the complete definitions as well as for additional definitions focusing on the appraisal of real as well as business property.

- An **Appraisal** is an opinion of a defined type of Value.
- **Appraisal Practice** is a subset of Valuation Services and includes Valuation Services performed only by an individual acting as an Appraiser. Appraisal Practice includes but is not limited to Appraisals and Appraisal Reviews.
- **Appraisal Review** is the act of developing an opinion about the quality of another Appraiser's work.
- An **Appraiser** is one who is expected to perform Valuation Services in a manner that is independent, impartial, and objective.
- **Appraiser's Peers** are other Appraisers who have expertise and competency in a similar type of Assignment.
- An **Assignment** is a Valuation Service that is provided by an Appraiser as a consequence of an agreement with a Client.
- **Assignment Conditions** are Assumptions, Extraordinary Assumptions, Hypothetical Conditions, Limiting Conditions, laws and regulations, Jurisdictional Exceptions, and other conditions that affect the Scope of Work.

[382] See AO-22 *Scope of Work in Market Value Assignments for Real Property* which contains an example of a commonly-used definition of the term *Market Value* as published in federal regulations and as adopted by certain federal financial regulatory agencies.



- **Assignment Elements** includes specific information needed to identify the Appraisal or Appraisal Review problem including 1) Client and any other Intended Users, 2) Intended Use of the appraiser's opinions and conclusions, 3) type and definition of Value, 3) Effective Date of the appraiser's opinions and conclusions, 4) subject of the Assignment and its Relevant Characteristics, and 5) Assignment Conditions.

- **Assignment Results** are an appraiser's opinions or conclusions (not limited to value) developed specific to an Assignment. Note that Physical Characteristics of the property are not Assignment Results. (As a result, Physical Characteristics can be shared with other Appraisers in order to help ensure higher quality appraisals.)

- **Bias** is a preference or inclination that precludes an Appraiser's impartiality, independence, or objectivity.



- **Business Enterprise** is an entity pursuing an economic activity.



- **Business Equity** is the interests, benefits, and rights inherent in the ownership of a Business Enterprise or a part thereof in any form (including, but not necessarily limited to, capital stock, partnership interests, cooperatives, sole proprietorships, options, and warrants).



- A **Client** is the party or parties who engage an Appraiser by employment or contract in a specific Assignment whether directly or through an agent.

- **Confidential Information** is information that is identified by the Client as being confidential or is information classified as confidential or private by law or regulation.



- **Cost** is the actual or estimated amount of money required to create, reproduce, replace or obtain a property. Cost and Price are often confused with Value.

- **Credible** means "worthy of belief." Credible Reports require support by relevant evidence and logic to the degree necessary for the Intended Use of the Report. The term Credible relates to opinion **development**. Usage: "In my opinion, the results stated in this report are (or are not) credible." (See Misleading)



- **Effective Date** is the date to which an Appraiser's analyses, opinions, and conclusions apply; also referred to as date of value.

- **Exposure Time** is an opinion, based on supporting market date, of the estimated length of time that the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at Market Value on the Effective Date of the appraisal.

- An **Extraordinary Assumption** is an assignment-specific assumption as of the Effective Date of the Assignment Results regarding uncertain information used in the analysis, which, if found to be false, could alter the Appraiser's opinions or conclusions.

- A **Hypothetical Condition** is an Assignment Condition, directly related to a specific Assignment, which is contrary to what is known by the Appraiser to exist on the Effective Date of the Assignment Results, but is used for the purpose of analysis.



- **Intangible Property** (intangible assets) are nonphysical assets, including but not limited to franchises, trademarks, patents, copyrights, goodwill, equities, securities, and contracts as distinguished from physical assets such as facilities and equipment.

- **Intended Use** is the use of an Appraiser's reported Appraisal or Appraisal Review Assignment Results as identified by the Appraiser based on communication with the Client at the time of the Assignment.[383]

- **Intended Users** include the Client and any other parties identified by the Appraiser (based on communications with the Client) as users of the Assignment Results.

- A **Jurisdictional Exception** is an Assignment Condition established by applicable law or regulation, which precludes an Appraiser from complying with a part of USPAP.



- **Market Value** is a type of Value which assumes the transfer of a property as of a given date under specific conditions as set forth in the value definition that is identified by the appraiser as applicable in the appraisal.



- A **Mass Appraisal** is the process of valuing a universe of properties as of a given date using standard methodology, employing common data, and allowing for statistical testing.



- **Misleading** means intentionally or unintentionally misrepresenting, misstating, or concealing relevant facts or conclusions. The term Misleading relates to the **reporting of assignment results**. Usage: "In my opinion, the report under review was communicated to the client in a misleading manner." (See Credible)



- **Personal Inspection** is a physical observation performed to assist in identifying Relevant Characteristics of a property in a Valuation Service.



- **Personal Property** is any tangible or Intangible article that is subject to ownership and not classified as Real Property, including identifiable tangible objects that are considered by the general public as being "personal," such as furnishings, artwork, antiques, gems and jewelry, collectibles, machinery and equipment; and Intangible Property that is created and stored electronically.



- **Physical Characteristics** are attributes of a property that are observable, measurable, factual as distinguished from opinions and conclusions which are the result of some level of analysis or judgment.

- **Price** is the amount asked, offered or paid for a property. Price may or may not have any relation to a Value that may be ascribed to that property by others.



- **Real Estate** is an identified parcel or tract of land, including improvements, if any.

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[383] According to the ASB's Q&A of June 27, 2018, "at the time of the assignment" refers to the time period commencing with the appraiser's agreement to perform a valuation service and ending with the completion of the assignment.



- **Real Property** includes the interests, benefits, and rights inherent in the ownership of Real Estate.



- **Relevant Characteristics** are features that may affect a property's value or marketability such as legal, economic, or Physical Characteristics.

- A **Report** is any written or oral communication of an Appraisal or Appraisal Review assignment transmitted to the Client upon completion of an Assignment.

- **Scope of Work** is the type and extent of inspection, research and analyses performed in an Appraisal or Appraisal Review Assignment.

- A **Signature** is personalized evidence indicating authentication of a work performed by the Appraiser and acceptance for the responsibility for the content, analyses, and the conclusion in the Report.

- **Valuation Service** is a service pertaining to an aspect of property Value regardless of the type of service performed by Appraisers as well as by non-appraisers.



- **Value** is the monetary relationship between properties and those who buy, sell, or use the properties expressed as an opinion of worth of a property at a given time. Value is always an opinion and never a fact. In Appraisal Practice, value will always be qualified - for example, market value, liquidation value, or investment value.

- A **Workfile** is documentation necessary to support an Appraiser's analyses, opinions, and conclusions.

Supplemental reading:

- USPAP DEFINITIONS

PREAMBLE

USPAP's **PREAMBLE** notes that the purpose of USPAP is to establish requirements for appraisal practice services including, but not limited to, the services of appraising and appraisal review. The PREAMBLE also notes that USPAP's intent is to promote and maintain public trust in the appraisal profession. This is accomplished when appraisers develop and communicate their opinions and conclusions in an ethical, meaningful and non-misleading manner.

USPAP is aimed at two important groups—appraisers who must observe the requirements of USPAP in order to maintain the highest level of professional practice, and users of appraisal services who should demand appraisal assignments that are prepared in conformance with USPAP.

It is important to recall that the ASB, USPAP and TAF do not establish which individuals or appraisal assignments must comply with USPAP. Nor does the ASB, USPAP or TAF have the power to judge or enforce laws.

USPAP states that individuals **must** comply with the standards of USPAP:

- When required to do so by law or regulation, or
- When required to do so by agreement with the client or intended user

When not obligated to comply by any of the above, the PREAMBLE notes that appraiser may still **choose** to comply, nonetheless. Examples of when an appraiser who is not otherwise bound by the above might "chose" to comply with USPAP include:

- When the appraiser states in the assignment report that he or she is so complying,
- When the appraiser is required to do so by a societal mandate,
- When the appraiser is a member of Sponsoring Organizations of The Appraisal Foundation.[384], [385]

The PREAMBLE stresses that any communication of an appraisal analysis, opinion or conclusion to intended users must be done in a competent and credible manner that is **meaningful** and **not misleading**:

> *It is essential that appraisers develop and communicate their analyses, opinions, and conclusions to intended users of their services in a manner that is meaningful and not misleading.*

The PREAMBLE introduces the reader to the **DEFINITIONS, ETHICS RULE, COMPETENCY RULE, RECORD KEEPING RULE, SCOPE OF WORK RULE, JURISDICTIONAL EXCEPTION RULE**, and the ten **STANDARDS**.

The PREAMBLE also introduces the **Comments** which are enforceable parts of USPAP and are used to clarify and elaborate on the parts of USPAP to which they are attached.

The PREAMBLE also notes that in order to comply with USPAP, an appraiser must meet the following obligations:

- *An appraiser must act competently and in a manner that is independent, impartial, and objective.*
- *An appraiser must comply with the ETHICS RULE in all aspects of appraisal practice.*
- *Appraisers must maintain the data, information and analysis necessary to support their opinions for appraisal and appraisal review assignments in accordance with the RECORD KEEPING RULE.*

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[384] TAF itself requires that members of its Sponsoring Organizations comply with USPAP (as well as with the AQB's *Appraiser Qualification Criteria*). There are three personal property appraiser organizations that are Sponsoring Organizations: the American Society of Appraisers, the International Society of Appraisers, and the Appraisers Association of America. All members of these societies **must** comply with USPAP.
[385] See the section entitled *When Must an Appraiser Comply with USPAP?* later in this chapter.

- *An appraiser must comply with the COMPETENCY RULE and the JURISDICTIONAL EXCEPTION RULE for all assignments.*

- *When an appraiser provides an opinion of value in an assignment, the appraiser must comply with the SCOPE OF WORK RULE, the RECORD KEEPING RULE, the applicable development and reporting STANDARDS and applicable Statements (there are currently no active Statements).*

- *When an appraiser provides an opinion about the quality of another appraiser's work that was performed as part of an appraisal or appraisal review assignment, the appraiser must comply with the SCOPE OF WORK RULE, the RECORD KEEPING RULE, applicable portions of STANDARDS 3 and 4, and applicable Statements (there are currently no active Statements).*

- *When preparing an appraisal or appraisal review that is a component of a larger assignment with additional opinions, conclusions, or recommendations, the appraisal or appraisal review component must comply with the applicable development and reporting STANDARDS and applicable Statements (there are currently no active Statements), and the remaining component of the assignment must comply with the ETHICS RULE, the COMPETENCY RULE, and the JURISDICTIONAL EXCEPTION RULE.*[386]

Supplemental reading:

- USPAP PREAMBLE

ETHICS RULE

The ETHICS RULE establishes the fundamental ethical obligations of an appraiser including objectivity, impartiality, integrity and independent judgment. The appraiser is required to perform to the highest ethical standards. In doing so, the appraiser helps to promote and preserve public trust in the profession.

An appraiser (while **representing** himself or herself as an appraiser or when **expected** by the client or the public to **act** as an appraiser) must also observe the highest standards of professional ethics by not misrepresenting his or her role when providing valuation services that are **outside** of appraisal practice, such as when performing as a dealer, auctioneer or estate liquidator.

The PREAMBLE to USPAP as well as USPAP's ETHICS RULE state that if required by **law**, **regulation** or the **requirements of the client**, the appraiser **must** comply with USPAP. The ETHICS RULE also adds that an individual **should** comply any time that individual represents that he or she is performing as an appraiser.[387]

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[386] N.B.: In the last three bullets above, mention is made regarding "applicable Statements." Changes incorporated into the 2016-2017 USPAP included the retirement of all remaining Statements. Though all are currently retired, reference to "applicable Statements" was retained in the PREAMBLE in the event any Statements are created in the future.

[387] See the below sections in this Chapter entitled *When Must an Appraiser Comply with USPAP?* and *Does USPAP Apply?* for related discussions.

In addition, appraisers must make use of a USPAP certification statement to document their recognition and acceptance of their USPAP-related responsibilities when communicating results of appraisal and appraisal review assignments completed under USPAP.



USPAP's ethical obligations apply only to appraisers and only to their appraisal practice services. USPAP's ethical obligations do not apply to non-appraisers such as to an estate liquidator who is not also an appraiser. As another example, if one who **is** acting as an appraiser were to provide price estimates for sales advisory purposes, then that service must comply with USPAP since it is within appraisal practice. But if an auctioneer or an estate liquidator (assuming they were not also appraisers) were to perform the same pricing service, their service would not require USPAP compliance. Why is this? Because USPAP only applies to those individuals who:

- Have appraisal competency (i.e., USPAP applies only to educated and trained appraisers), and
- Are performing within appraisal practice (i.e., when performing a valuation service while in the role of an appraiser).

Public's Expectations of Appraisers



This obligation to comply with USPAP is established by the **public's expectations** that the individual will perform as an appraiser competently, ethically, independently, objectively and impartially. An auctioneer or estate liquidator or broker or antiques dealer or downsizing expert or pawn broker (though he or she might provide a valuation service involving an opinion of value) is **not** an appraiser, has **not** been trained in appraisal theory and methodology, and is **not** familiar with USPAP. In short, the public does not have the same expectations of auctioneers, estate liquidators, etc. when they are providing valuation services as they do of appraisers. As a result, such non-appraiser individuals have no obligations to comply with USPAP. What is more, part of the valuation service they provide as non-appraisers may even incorporate actions that would actually constitute violations of USPAP for appraisers (but that are typical business practices for these other professions) such as accepting contingency fees, withholding or slanting information for their own benefit, or acting as an advocate for the client. **Such actions as these would be clear and serious violations of USPAP if they were to be undertaken by an appraiser!**



It is when appraisers have more than one business (such as being recognized as both an appraiser as well as a dealer, auctioneer, estate liquidator, etc.) that they must take special care not to misrepresent their role when providing valuation services while performing outside of appraisal practice. So, if you are known as an appraiser but are providing some sort of valuation service outside appraisal practice while performing in a role other than as an appraiser (such as while performing as an auctioneer or antiques dealer[388]), do not give the client the impression that you are functioning as an independent, unbiased, USPAP-compliant appraiser, because, in fact, **chances are that you are not**.

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[388] An example might be an auctioneer/appraiser performing as an auctioneer and estimating for a would-be consignor the amount for which a property might sell. Another example might be a dealer/appraiser performing as a dealer and making an offer to buy a property from a would-be seller for an amount the dealer feels is fair.

The ETHICS RULE consists of three sections: **Conduct**, **Management**, and **Confidentiality**.

- **Conduct Section of the ETHICS RULE**

  This section sets forth the appraiser's general responsibilities to perform ethically and competently, to perform in accordance with USPAP, and to not misrepresent his or her role when providing valuation services that are outside of appraisal practice.

  Bias. In developing opinions, an appraiser must be impartial, objective, independent, and act without accommodation of personal interests, i.e., the appraiser must act in an unbiased manner.

  Advocacy. An appraiser must not advocate the cause or interest of any party or issue, and must not accept assignments having predetermined opinions and conclusions.

  Prejudice. While of significance to the real property appraiser rather than to the personal property appraiser, it should be noted that as required by the USPAP ETHICS RULE Conduct section, the appraiser:

  > *…must not rely on unsupported conclusions*[389] *relating to characteristics of race, color, religion, national origin, gender, marital status, familial status, age, receipt of public assistance income, handicap or an unsupported conclusion that homogeneity of such characteristics is necessary in order to maximize property value.*

  In related guidance, USPAP's AO-16 *Fair Housing Laws and Appraisal Report Content* states:

  > *An appraiser must ensure that his or her appraisal or appraisal review opinions and conclusions are impartial and objective and do not illegally discriminate or contribute to illegal discrimination through subjective or stereotypical assumptions.*

  Fraud. An appraiser must not communicate assignment results in a misleading or fraudulent manner, must not make use of or communicate a report or assignment results known by the appraiser to be misleading or fraudulent, and must not permit an employee or other person with whom they are associated to communicate a report or assignment results that are misleading or fraudulent.

  Misleading. On occasion, the client might request that the appraiser omit from the report certain information that might be detrimental to the client's case. An example would be a client who requests that the appraiser omit mentioning pre-existing damage that was observed by the appraiser while conducting an inspection for a transit-related damage claims appraisal. Performing an appraisal without disclosing the existence of the pre-existing damage would be misleading and, therefore, in violation of USPAP.

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[389] …or on **supported** conclusions if precluded by applicable law.

Negligence or Criminality. The appraiser must not perform assignments in a grossly negligent manner and must not engage in criminal activity.

Violate USPAP. An appraiser must not willfully or knowingly violate the requirements of the RECORD KEEPING RULE.

Interest and Prior Service. For each assignment (**if known prior to accepting the assignment or if discovered thereafter)** an appraiser must disclose **to the client** as well as **in the report's certification** the two matters discussed below.

- Note that these disclosure requirements pertain to appraiser interests and/or services performed by the appraiser within three years prior to **accepting the assignment**—not three years prior to the **effective date of the report**. Although the effective date of the appraisal might be relatively close to the date the assignment was accepted, there may be cases in which there are significant differences between the two dates. Such differences could result in a different response from the appraiser in the required disclosures that we are discussing here. (2020-2021 USPAP FAQ #19)

- If the new assignment is other than an appraisal or appraisal review, there will be no USPAP certification statements in which to disclose appraiser interests or prior services. In such assignments, only the initial disclosure to the client is required. Examples might include a new assignment in which you conducted comparable market data research or a property inspection for another appraiser. Neither report would contain a USPAP certification since neither is either an appraisal or an appraisal review.

The two matters that must be disclosed by the appraiser include the following:

1. *Interest.* The appraiser must disclose (initially to the client, but also in the report's certification if performing an appraisal or appraisal review assignment) any current or prospective interest the appraiser has regarding the parties involved or regarding the subject property.

   For instance, if upon accepting the assignment it is known that after the assignment has been completed the appraiser will be conducting an estate sale or auction of the appraised property, such an interest must be disclosed in the appraisal's certification. If known, such interests must be disclosed prior to accepting the assignment. If such an interest is not known prior to accepting the assignment, it must be disclosed upon its discovery during the course of the assignment. (2020-2021 USPAP FAQ #23)

2. *Prior Service.* The appraiser must disclose (initially to the client, but also in the report's certification if an appraisal or appraisal review assignment) any services regarding the subject property performed by the appraiser (as an appraiser or in any other capacity) within the **three years** preceding acceptance of the assignment.

   - Each assignment must include **in the certification** a disclosure regarding services performed within the past three years regarding the subject

property, **whether any services were provided or not**. (2020-2021 USPAP FAQ #17)

Whether or not prior service was performed must be disclosed in the certification. If there **was** prior service, such service must **also** be initially disclosed to the client upon assignment acceptance or whenever discovery of the service is made during the course of an assignment. This initial disclosure to the client can be made either orally or in writing by email or, perhaps, in a letter of engagement. (2020-2021 USPAP FAQ #27)

- The appraiser must also disclose the **type** of any services regarding the subject property performed by the appraiser and must also **describe** the specific service performed. (2020-2021 USPAP FAQ #21)

- If the appraiser performed multiple services such as multiple appraisals of the property within the three-year period, **each** prior service must be disclosed to the client and included in the certification. (2020-2021 USPAP FAQ #18)

- In general, disclosing that you appraised an item within the past three years is not a violation of the Confidentiality section of the ETHICS RULE. The ETHICS RULE prohibits disclosing "confidential information or assignment results prepared for a client." The mere fact that the appraiser appraised a property is not confidential information as defined by USPAP. (2020-2021 USPAP FAQ #15)

- Using a property as a comparable sale in an appraisal does not constitute "performing a service" regarding that comparable property. Therefore, a subsequent request to appraise the property that was used as a comparable sale would not require disclosure under the Conduct section of the ETHICS RULE. (2020-2021 USPAP FAQ #26)

- While the Conduct section of the ETHICS RULE recognizes that an appraiser may not always recall performing services on a property prior to being engaged in the assignment, appraisers are encouraged to review their record keeping procedures and make any necessary modifications to assist them in promptly recognizing any property for which they provided services within the prior three-year period.

- **Management Section of the ETHICS RULE**

The Management section of the ETHICS RULE prohibits appraisers from accepting assignments that involve **contingent compensation**, i.e., fee arrangements that are based on the appraiser's opinions are unethical. Examples might include compensation that is contingent on:

  - The attainment of a specified or predetermined result

- The amount of a value opinion
- The occurrence of a subsequent event directly resulting from the appraiser's conclusions
- A direction in assignment results that favors the client's cause

The appraiser must also not accept the payment of **undisclosed** fees, commissions, or "things of value" in connection with the **procurement** of an appraisal or appraisal review assignment.

The ETHICS RULE notes that:

> *Competency, rather than financial incentives, should be the primary basis for awarding an assignment.*

Such payments to the appraiser must be disclosed in the USPAP certification and in any transmittal letter in which conclusions are stated. (Simply disclosing the fact that a fee was paid is sufficient to meet this requirement. However, USPAP does not prohibit full disclosure of the amount of the fee or a description of the thing of value should the appraiser choose to do so.)

The Management section requires that the appraiser affix or authorize his or her signature be affixed to any appraisal or appraisal review assignment in recognition of the appraiser's USPAP responsibilities. Appraisers must exercise due care to avoid the unauthorized use of their signatures.[390]

When working for a group or company, it is the individual appraiser's responsibility to ensure that:

- There has been no breech of ethics in obtaining an assignment on which he or she is working,
- The appraisal is prepared in accordance with USPAP, and
- No breech of ethics occurred in the way in which fees were charged.

USPAP prohibits false, misleading or exaggerated advertising or solicitation of assignments.[391]

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[390] See the section entitled *Electronically Transmitted Appraisal Reports* in Chapter 12.

[391] See the Chapter 8 section entitled *Misrepresentation in Advertisement or Self-Promotion* for a discussion regarding the growing misuse of the terms "USPAP Certified Appraiser" and "USPAP Certified Appraisal." Also see the Chapter 8 section entitled *Fee Structures* for a related discussion regarding appraisal procurement fees and referral fees.

- **Confidentiality Section of the ETHICS RULE**

  The appraiser's clients have legitimate needs regarding privacy. The Confidentiality section of the ETHICS RULE sets forth requirements for maintaining the confidential nature of certain, **but not all**, assignment-related information.

  The Confidentiality section notes that the appraiser-client relationship is confidential and requires protection. This is accomplished, in general, by the appraiser being aware of and complying with all confidentiality and privacy laws and regulations[392] applicable to the assignment, and by acting in good faith with regard to legitimate interests of the client not only in making use of confidential information but also in communicating assignment results.

  USPAP defines *Confidential Information* as:

  CONFIDENTIAL INFORMATION: information that is either:

  - *identified by the client as confidential when providing it to an appraiser and that is not available from any other source; or*
  - *classified as confidential or private by applicable law or regulation*

  Confidentiality is fundamental to the appraiser-client relationship, so an appraiser must protect the confidential nature of that relationship. This is accomplished by not disclosing either confidential information obtained from a client or assignment results to anyone other than:

  - The client and anyone specifically authorized by the client (preferably in writing),
  - State appraiser regulatory agencies (for real property appraisers only).
  - Law enforcement agencies and such third-parties that may be authorized by law (e.g., in civil proceedings during discovery, depositions, or court testimony), or
  - A duly authorized professional peer review committee (e.g., during societal disciplinary proceedings). It is unethical for a peer review committee to disclose confidential information that has been presented to the committee.

  The Confidentiality section of the ETHICS RULE notes that when confidential elements are removed from a report through redaction, it is not necessary to obtain client authorization for the disclosure of the remaining, modified information. An example of when an appraiser might wish to redact information from an appraisal report would be when the appraiser wants to make use of the report as a sample appraisal report the appraiser wishes to show to a prospective client.[393], [394]

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[392] See the below section of this Chapter entitled *Protecting Consumer Financial Privacy: the Gramm-Leach-Bliley Act.*

[393] In this regard, "confidential elements" being redacted would typically include information that could identify the client such as name, address, phone number, email address, etc. The identification of properties

It should be noted that the appraiser-client relationship is distinct from the appraiser's relationship to **other** intended users. For instance, the appraiser cannot discuss the report or assignment results even with **other** intended users without authorization from the client.[395]

Regardless of whether confidential information or assignment results are in physical or electronic form, the ETHICS RULE of USPAP requires that you take reasonable steps to safeguard against access to such information by unauthorized individuals. "Reasonable" steps are those based on sound judgment. Safeguard physical files from public view and keep them secure from theft. Computers and electronic devices and files must be kept safe from theft—and from hacking as well. There is no one-size-fits-all solution for securing confidential client information and assignment results. It could range from closing the file folder on your desktop or logging off your computer so confidential information is secure from being seen by workmates—to placing all workfiles in a locked file cabinet—to keeping the door to your home-office locked. Use sound judgment to develop reasonable methods to keep your client's confidential information secure.

In addition to yourself knowing the importance of not disclosing such information, ensure that those who are authorized to access assignment results or confidential information (such as co-workers, employees, etc.) are also aware of the prohibition regarding the disclosure of confidential information or assignment results.

Gramm-Leach-Bliley Act: Protecting Consumer Financial Privacy

Regarding customer privacy, you might encounter references to the Gramm-Leach-Bliley Act (G-L-B Act)—indeed, the Act is mentioned in USPAP.[396], [397] The G-L-B Act (also known as the Financial Services Modernization Act of 1999) resulted in the Federal Trade Commission (FTC) adopting regulations found in 16 CFR 313 in order to implement the Act.[398]

The purpose of the Act is to reform the financial services industry including addressing concerns regarding the financial privacy of consumers. Financial institutions subject to the G-L-B Act must tell their customers (upon initial establishment of a customer relationship as well as annually) about their information-sharing practices. They must

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widely known to be owned by a particular person should also be considered as a confidential element needing redaction.

[394] See the Chapter 8 section entitled *The Appraiser-Client Relationship* for a further discussion regarding the confidentiality of information in a report and the redacting of confidential information from past appraisals being used as sample appraisal reports.

[395] See the Chapter 8 section entitled *Ethical Obligations to Clients* for a complimentary discussion regarding confidential information.

[396] USPAP makes mention of the G-L-B Act in a footnote to the definition of the term *Confidential Information* as well as in a footnote to the Confidentiality section of the ETHICS RULE. The ETHICS RULE states, in part, *"An appraiser must be aware of, and comply with, all confidentiality and privacy laws and regulations applicable in an assignment."*

[397] In 2001 the ASB wrote a whitepaper regarding the G-L-B Act. You can read it at davidmaloney.com/asb-privacy-guidance.pdf.

[398] The regulations were adopted May 24, 2000 and can be found in 16 CFR Part 313 *Privacy of Consumer Financial Information; Final Rule*. You can read it at davidmaloney.com/ftc-final-rule.pdf.

also explain to customers their right to "opt out" if they don't want their non-public information (NPI)[399] shared with certain third parties.

Why do we appraisers care? Because the regulations consider appraisers as "financial institutions!" 16 CFR §313.3(k)(2)(ii) states, *"A personal property or real estate appraiser is a financial institution because real and personal property appraisal is a financial activity listed in 12 CFR 225.28(b)(2)(i) and referenced in section 4(k)(4)(F) of the Bank Holding Company Act."* Despite this, while there might be applicability to real property appraisers who frequently work with lenders and other financial institutions, it is hard to conclude that the typical personal property appraiser could possibly fall under the requirements of the G-L-B Act.

Various sections of §313.3 define terms integral to determining whether or not you are subject to the G-L-B Act. A "customer" is a consumer having a "continuing relationship" with you; however, the Act specifically states that consumers obtaining a one-time personal or real property appraisal service from you is not an example of a "continuing relationship." It is primarily for this reason that I do not feel that the typical personal property appraiser is subject to the notification requirements of the G-L-B Act.[400]

Supplemental reading:

- USPAP ETHICS RULE

RECORD KEEPING RULE

The RECORD KEEPING RULE requires that an appraiser prepare a **workfile** (i.e., a written or electronic record) for **any and all** appraisal or appraisal review assignments, and that the workfile be in existence **prior to** the issuance of a report or other communication of assignment results.[401], [402]

USPAP also requires that a workfile be prepared for both written as well as for oral reports. If an oral report is issued, a written summary of the oral report must be added to the workfile within a reasonable time after the issuance of the oral report.

USPAP defines a *Workfile* as:



WORKFILE: data, information, and documentation necessary to support the appraiser's opinions and conclusions and to show compliance with USPAP.

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[399] NPI includes identifiable information including unlisted phone numbers, name and address as well as account numbers including those found on checks or credit cards if such are used as a form of payment for financial services rendered.

[400] Having said that, there is nothing preventing you from incorporating a privacy statement into your appraisal report if you feel so compelled, or if a client requires that you do so. For more about the G-L-B Act read the FTC's article entitled *How To Comply with the Privacy of Consumer Financial Information Rule of the Gramm-Leach-Bliley Act* at ftc.gov/tips-advice/business-center/guidance/how-comply-privacy-consumer-financial-information-rule-gramm.

[401] It's advisable to create a workfile as soon as an assignment agreement has been reached between the client and the appraiser.

[402] There is nothing in USPAP that would prohibit an appraiser from maintaining only electronic versions of the workfile. (2020-2021 USPAP FAQ #100)

The RECORD KEEPING RULE applies only when the performance STANDARDS 1 through 10 apply. In other words, a workfile must be maintained **only** if the appraiser is performing an **appraisal** or an **appraisal review** assignment. No workfile is required to be maintained when an appraiser performs other types of appraisal practice such as teaching appraisal courses or assisting another appraiser with market data research—only when performing specifically either an **appraisal** or an **appraisal review**.



Note that **all** appraisal and appraisal review assignments must have a workfile. The RECORD KEEPING RULE states, *"An appraiser must prepare a workfile for each appraisal or appraisal review assignment."* The RULE requires a workfile for each assignment—not merely for assignments which have been completed or for assignments for which a completed report was transmitted to the client.

Indeed, the RULE requires that a workfile must be in existence *"…before the issuance of any report or other communication of assignment results."* So, even though the client cancels an assignment, you must keep the workfile for the prescribed time even though an appraisal was never performed and no appraisal report was ever transmitted. (See 2020-2021 USPAP FAQ #104)

The workfile must contain all of the following information:

- The name and of the client, and the identity (by name or by type) of other intended users,
- True copies of **all** written reports regardless of whether transmitted in printed or in electronic format. A photocopy or an electronic copy of the report transmitted to the client satisfies the requirement for a true copy.
- Written summaries of **all** oral reports or testimony (or transcript of the testimony),
- The appraiser's signed and dated USPAP certification, and
- All other information, data or documentation necessary to support the appraiser's opinions and conclusions and to show compliance with the USPAP, or references to the location(s) of such other information, date or documentation.

USPAP also requires that a workfile for either a Restricted Appraisal Report or for an oral appraisal report be sufficient for the appraiser to produce a written Appraisal Report. In addition, the workfile for an oral appraisal review report must be sufficient to produce a written Appraisal Review Report.

The RECORD KEEPING RULE requires that the workfile be retained for at least five years after preparation, or for two years after final disposition of any judicial proceeding **in which the**

appraiser provided testimony[403] related to the assignment, whichever period expires last. Some appraisers choose to keep all workfiles indefinitely.[404]

An appraiser typically maintains custody of the workfile; however, if the appraiser does not maintain custody of the workfile in which the appraiser was involved, he or she must make arrangements for workfile retention, access and retrieval with the party that does have custody of the workfile. Conversely, an appraiser having custody of a workfile must allow access to it by appraisers having workfile obligations that are related to the assignment.

Overtime, document storage technology changes. This was not an issue in pre-computer days when all workfiles were in printed form. However, with the advent of constantly evolving electronic storage hardware and software, it is imperative that the appraiser now ensure that the workfile is stored in a medium that is retrievable by the appraiser or by those with authorized workfile access (see below) throughout the prescribed record retention period.

On occasion, in addition to the primary appraiser, there will be others with workfile access obligations related to an assignment. Examples might include a state appraiser regulatory agency (for real property appraisers), a duly authorized peer review committee, legal authorities, or others with whom the appraiser has made retrieval arrangements such as an assisting appraiser. In all such cases, the appraiser having custody of the workfile must allow workfile access and retrieval to such individuals.

As mentioned, the RECORD KEEPING RULE applies only to appraisal and appraisal review services (i.e., to any appraisal practice assignments for which STANDARDS 1-10 apply). Other appraisal practice assignments (such as developing an appraisal class or writing an appraisal article) do not fall under the guidance of the ten STANDARDS so do not have record keeping or workfile requirements. For such other appraisal practice assignments, the RECORD KEEPING RULE would not apply.

Appraisers who willfully or knowingly fail to comply with the obligations of the RECORD KEEPING RULE are in violation of both the RECORD KEEPING RULE as well as the ETHICS RULE.[405]

Supplemental reading:

- USPAP RECORD KEEPING RULE

COMPETENCY RULE

The COMPETENCY RULE sets forth requirements regarding what the appraiser must consider regarding his knowledge and experience before agreeing to perform an assignment as well as while in the process of conducting the assignment. Such considerations will help the appraiser

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[403] Note that if the appraiser **did not** provide testimony, then the workfile need be retained for only five years even though the assignment was involved in a judicial proceeding including being submitted as evidence.
[404] The requirement for workfile retention terminates upon the death of the appraiser. (2020-2021 USPAP FAQ #107)
[405] See the Chapter 12 section entitled *Assignment Workfiles* for a complimentary discussion regarding workfiles.

ensure that he or she is technically equipped and sufficiently knowledgeable and experienced to complete the appraisal or appraisal review assignment competently.



Must an appraiser be perfect? No. The COMPETENCY RULE addresses the issue of perfection, but it also addresses the appraiser's obligation to maintain skills and knowledge:

> *Perfection is impossible to attain, and competence does not require perfection. However, an appraiser must not render appraisal services in a careless or negligent manner. This Rule requires an appraiser to use due diligence and care.*
>
> *It is not sufficient for appraisers to simply maintain the skills and the knowledge they possess when they become appraisers. Appraisers must continuously improve their skills and knowledge to remain competent.*

The COMPETENCY RULE requires the appraiser[406] to be competent to perform an assignment, otherwise the appraiser:

- Must acquire the necessary competency to perform the assignment, or
- Must decline or withdraw from the assignment

Note that even **before** agreeing to perform an assignment, an appraiser must determine that he or she can perform the assignment **competently**. "Competency" requires that the appraiser:

- Has the ability to identify the appraisal or appraisal review problem to be solved.
- Has the training, knowledge and experience necessary to complete the assignment competently.
- Recognizes and complies with any laws or regulations that apply to the appraiser or to the assignment.
- Is familiar with such factors as:
    - The specific type of property being appraised,
    - The relevant marketplace,
    - The relevant geographical location if appropriate,
    - The intended use of the appraisal, and
    - With any other factor necessary to develop credible assignment results.

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[406] Other than for those striving to meet the AQB's *Personal Property Appraiser Qualification Criteria,* USPAP has no requirement for continuing education classes (though it is implied); however, keeping current with recognized methodologies is required by SR 7-2(a) which states that the appraiser must *"…be aware of, understand, and correctly employ those recognized methods and techniques that are necessary to produce a credible appraisal…"* (2020-2021 USPAP FAQ #113)

When identifying the "appraisal problem," the appraiser gathers, filters and analyzes information from a number of sources including, primarily, the client, but also from direct personal observations and perhaps, if need be, from third-party information sources such as specialist appraisers, or other consultants or experts.

By first identifying the problem, the appraiser is able to make the appropriate scope of work decision. In so doing, the appraiser can recognize the work required to develop credible assignment results and whether or not he or she is competent to undertake the tasks that the scope of work will require.

Deficiency in Appraiser Knowledge or Experience

The appraiser is not required to withdraw from an assignment if a deficiency in knowledge and experience exists. The COMPETENCY RULE allows for remediation such as through additional study or by means of consultations with experts. The RULE even allows for total reliance upon the analyses, opinions and conclusions of another individual who is an expert.

If, **prior to agreeing to perform the assignment**, the appraiser determines that he or she does not have the necessary training, skill or experience to complete the appraisal competently, the appraiser must:

- Disclose the lack of knowledge and/or experience to the client before agreeing to perform an assignment or whenever the deficiency is first noted during the course of the assignment, and
- Take all steps necessary to complete the assignment **competently**, and
- Describe the lack of knowledge and/or experience and the steps taken to complete the assignment competently in the report. Examples of steps appraisers often take to overcome a lack of competence include:
    - Additional personal study by the appraiser
    - Retaining the services of other appraisers believed to possess the necessary knowledge and/or experience such as a specialist fine art appraiser to assist with the assignment. This option would allow the hiring of a specialist appraiser to value one particular category of property in which he or she specializes while you appraise the balance of the items.
    - Retaining experts or technicians who have the necessary knowledge and/or experience. For the personal property appraiser, this option might include retaining an expert to conduct an authentication, an outside lab to conduct a wood or ceramic analysis, a gemological laboratory to certify a gemstone, or a professional service to grade a collection of coins or baseball cards.

The appraiser is required to take similar steps if, **during the course of the assignment**, the appraiser uncovers facts or conditions that cause the appraiser to recognize that he or she does not have the necessary training, skill or experience to complete the appraisal competently. Should that be the case, the appraiser must so notify the client, take all steps necessary to complete the

assignment competently, and describe the lack of knowledge in the report as well as the steps that were taken to complete the assignment competently.

Regardless of when the lack of competency is discovered, unless the appraiser can take remedial action to overcome the deficiency to the degree that the assignment can be completed competently, the appraiser must decline or withdraw from the assignment.

Supplemental reading:

- USPAP COMPETENCY RULE

SCOPE OF WORK RULE

The SCOPE OF WORK RULE establishes requirements for the appraiser regarding problem identification, research, and analyses—three critical factors required for developing credible assignment results. Specifically, this RULE requires that for each appraisal or appraisal review assignment the appraiser must**:**

- **Identify the problem** to be solved.



  - Certain Standards Rules identify assignment elements that must be identified in order to properly identify the problem. For instance, USPAP's SR 7-2 *Problem Identification* requires that the following assignment elements be identified for a personal property appraisal assignment:
    - Client and any other intended users
    - Intended use of the appraiser's opinions and conclusions
    - Type and definition of value
    - Effective date of the appraiser's opinions and conclusions
    - Subject of the assignment and its relevant characteristics
    - Assignment conditions

- **Determine** and **perform** the degree of work necessary in order to develop **credible assignment results given the intended use of the report**.

- **Disclose** the work actually performed within the appraisal or appraisal review report.

Basically, scope of work is the work performed by the appraiser to achieve his or her goal which is to develop credible assignment results.[407] USPAP defines *Scope of Work* as:

> *SCOPE OF WORK: the type and extent of research and analyses in an assignment.*

[407] At times, disclosure of research and analysis that was **not** done is also necessary in order for intended users to properly understand the scope of work undertaken. For instance, the report must explain which of the three approaches to value were developed and which were not developed and why.

USPAP's SCOPE OF WORK RULE emphasizes the important role problem identification[408] plays in the scope of work determination, and how the scope of work performed must be sufficient to develop credible assignment results given the intended use of the report:

> *An appraiser must properly identify the problem to be solved in order to determine the appropriate scope of work. The appraiser must be prepared to demonstrate that the scope of work is sufficient to produce credible assignment results.*
>
> *Comment: Scope of work includes, but is not limited to:*
>
> - *the extent to which the property is identified;*
> - *the extent to which tangible property is inspected;*
> - *the type and extent of data researched; and*
> - *the type and extent of analyses applied to arrive at opinions or conclusions.*
>
> *Appraisers have broad flexibility and significant responsibility in determining the appropriate scope of work for an appraisal or appraisal review assignment.*
>
> *Credible assignment results require support by relevant evidence and logic.* ***The credibility of assignment results is always measured in the context of the intended use***. [emphasis added]

Note that scope of work does not include the **reporting** of assignment results. Scope of work applies only to the **development phase** of an assignment (with an emphasis on the **identification of the appraisal problem**) and not on the reporting phase.[409]

The SCOPE OF WORK RULE also places greater emphasis on **disclosing** in the final assignment report the work actually performed so that clients and other intended users have a better understanding of what actions were taken by the appraiser in order to arrive at his or her opinions, analyses or conclusions.

It is the responsibility of appraisers to use their training, judgment and experience to determine a scope of work that produces credible assignment results given the intended use of the appraisal. A scope of work that produces credible results for one intended use (such as pricing for an upcoming yard sale) might be totally inadequate for another, more complicated intended use (such as for acquiring insurance coverage or for income tax purposes).



An appraiser determines and performs a scope of work that is sufficient to produce credible assignment results only after consulting with the client to first identify the appraisal problem. Only by first identifying the appraisal problem to be solved can the appraiser determine the type and extent of research and analysis needed in order to develop credible assignment results.

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[408] Problem identification is governed by USPAP SR 7-2 *Problem Identification.* Be sure that you are very familiar with this Standard Rule, as it is at the heart of the Appraisal Process.

[409] See the Chapter 1 section entitled *Appraisal Process, Step 2: Determine the Scope of Work* as well as the Chapter 3 section entitled *Scope of Work* for additional discussions regarding scope of work.

The scope of work is deemed to be acceptable if it meets or exceeds the expectations of parties who regularly are intended users for similar assignments, and if the scope of work meets or exceeds what an appraiser's peers' actions would be in a similar assignment.

Assignment conditions may limit the scope of work to the point that credible results in the context of the intended use of the report cannot be achieved. For instance, if the client does not allow a scope of work broad enough to permit authentication thought necessary by the appraiser, then the appraiser needs to convince the client of the importance of allowing for a broader scope of work. If the scope of work cannot be expanded and if the appraiser is unable to use an extraordinary assumption to satisfactorily address the issue, then the appraiser should withdraw from the assignment.

Disclosure of Scope of Work



USPAP requires that the scope of work be disclosed in the appraisal report to whatever extent necessary (given the intended use of the assignment results) in order to enable the client and other intended users to understand the scope of work performed. Clients and other intended users are unable to rely on the assignment results without a clear understanding of the research and analysis performed by the appraiser which lead to those results—thus the need to properly disclose the scope of work.

USPAP gives the appraiser considerable flexibility as to how the scope of work is disclosed. The entire scope of work can be consolidated into one section within the report. Alternately, the scope of work can be spread throughout the report if the appraiser so chooses.

Supplemental reading:

- USPAP SCOPE OF WORK RULE
- USPAP Standard Rule 7-2 *Problem Identification*

JURISDICTIONAL EXCEPTION RULE

Compliance with the law or public policy within the jurisdiction in which the appraisal is practicing is naturally required of all appraisers whether or not subject to USPAP. Such compliance is a fundamental standard of behavior.

"Law or public policy" includes the federal and state constitutions, legislative and court-made law, and administrative rules, regulations and ordinances. The term "jurisdiction" relates to the legal authority to legislate, apply, or interpret the law in any form at the federal, state, and local levels of government.

Accordingly, this RULE states that if compliance with any section of USPAP is precluded by statute law, applicable case law or local ordinances in the jurisdiction in question, then the appraiser is not required to comply with that particular section of USPAP, i.e., that part of USPAP becomes void for that assignment.

The purpose of the JURISDICTIONAL EXCEPTION RULE is strictly limited to preserving the balance of USPAP if one or more of its parts are determined to be contrary to local law or public

policy. In such cases, all other parts of USPAP would continue to apply, though the offending part of USPAP would not.

A Jurisdictional Exception is not a choice made by either the client or the appraiser, and it is not applied at the discretion of either. Rather, a jurisdictional exception is a type of **assignment condition** based on existing law or public policy, and it is the appraiser's responsibility to determine whether or not the JURISDICTIONAL EXCEPTION RULE applies to a particular assignment.

As a type of assignment condition, jurisdictional exceptions must be disclosed in the report. That part of USPAP which is voided by the law or regulation must be noted as does the law or regulation causing the jurisdictional exception.

The matter of jurisdictional exceptions primarily impacts the real property appraiser and is seldom an issue of concern for the personal property appraiser. The only known jurisdictional exception pertaining to the personal property appraiser occurs in the state of California where a state statute stipulates that appraisal fees for appraisals being done by "probate referees" for probate courts shall be based on the appraised value of the property (.1% of the assets that have been appraised). As illustrated by 2020-2021 USPAP FAQ #119, the USPAP-compliant appraiser can still appraise the property under this compensation arrangement, but the appraiser must disclose in the report the reason that prohibits complying with USPAP's requirement that compensation not be contingent on the amount of the value opinion. The appraiser must also cite the source (i.e., cite the relevant CA statute) for this jurisdictional exception.

Supplemental reading:

- USPAP JURISDICTIONAL EXCEPTION RULE

USPAP STANDARDS 1 to 10

There are ten (10) **STANDARDS** in USPAP. Each STANDARD is a benchmark by which ethical performance and competency can be gauged. The STANDARDS delineate the rules, requirements and specifications regarding what an appraiser is supposed to do when conducting an **appraisal (including mass appraisals)** or **appraisal review** assignment.

Note that these ten STANDARDS apply only to the appraiser performing either an **appraisal** or an **appraisal review**. There are no STANDARDS that apply to the appraiser while providing other appraisal practice services such as teaching appraisal courses, doing market data research, or authoring an appraisal text book. Neither do any of the ten STANDARDS apply to an individual providing valuation services while performing in a role other than as an appraiser, such as while performing as an estate liquidator, dealer or auctioneer.

The STANDARDS cover both what the appraiser must consider when **developing** the assignment opinions, analysis or conclusions as well as what the appraiser must consider when **reporting** his or her opinions, analysis or conclusions. Each of the ten STANDARDS contains **Standards Rules** (SR) that identify the specific requirements and provide guidance for the STANDARD with which they are associated.

Four USPAP STANDARDS Govern the Personal Property Appraiser

We will first cover in some detail the four USPAP performance STANDARDS that govern the **personal property** appraiser. Following the discussion of these four personal property STANDARDS, we will briefly cover the remaining six STANDARDS which are relevant to the appraisal disciplines of real property appraisals, mass appraisals and business property appraisals.

The four STANDARDS governing the personal property appraiser include:

- STANDARD 3 *Appraisal Review, Development*
- STANDARD 4 *Appraisal Review, Reporting*
- STANDARD 7 *Personal Property Appraisal, Development*
- STANDARD 8 *Personal Property Appraisal, Reporting*

Personal property appraisers may also be called upon to conduct **appraisal reviews** as well as **appraisals**. The requirements for appraisal review development and reporting (regardless of the discipline) are contained in STANDARDS 3 and 4, respectively. STANDARDS 7 and 8 contain the rules for development and reporting, respectively, a personal property **appraisal** assignment.

STANDARD 3 *Appraisal Review, Development*

An appraisal review is the act or process of developing and reporting a credible opinion about the quality of all or only a part of the work of another appraiser that was performed as part of either an appraisal assignment or an appraisal review assignment (including the workfile of the assignment under review). STANDARD 3 contains the requirements for **developing** that credible opinion. (As you will see below, STANDARD 4 *Appraisal Review, Reporting* sets forth the requirements for **reporting** the results of an appraisal review.)



- An appraisal review could address issues relating to the appropriateness, relevancy, accuracy, or completeness of the work under review. For instance, the client might request the appraiser to opinion as to whether the assignment under review is USPAP compliant.
- The client might ask the appraiser to opine on whether or not he or she feels that, perhaps because of excessive USPAP compliance short comings, the overall report is unreliable and thus should be disregarded.
- Note that an appraisal review assignment focuses only on an appraisal or appraisal review assignment performed by another appraiser. Issues relating to the other appraiser's professional qualifications, societal memberships or other aspects of his or her appraisal practice do not fall within the scope of an appraisal review assignment.

Appraisal reviews are often used during legal actions. A law firm might ask you to critique the work of another appraiser. In such situations, the firm might believe that the opposing side has provided an inaccurate appraisal or one that does not comply with generally accepted standards for appraisers, and they would like you to determine the completeness, adequacy or reliability of

the opposing appraisal. Such "forensic" reviews are different and more complex than a simple appraisal review. They commonly require the reviewing appraiser to determine if the assignment under review complies with the requirements of USPAP as well as with the appraiser's typical standard of care. (By a "forensic" review I mean a review that will be used in court to adjudicate an issue. Such reviews must apply a broad spectrum of knowledge in order to answer questions that are of interest during legal proceedings relating to a crime or to a civil action.)

USPAP defines *Appraisal Review* as:

> 
> *APPRAISAL REVIEW: (noun) the act or process of developing an opinion about the quality of another appraiser's work (i.e., a report, part of a report, a workfile, or some combination of these), that was performed as part of an appraisal or appraisal review assignment; (adjective) of or pertaining to an opinion about the quality of another appraiser's work that was performed as part of an appraisal or appraisal review assignment.*

Similar to an appraisal assignment, an appraisal review requires that the reviewer first identify the problem, then determine the necessary scope of work, and, finally, complete the research and analysis necessary to develop a credible appraisal review.

- SR 3-1 *General Development Requirements*. In developing an appraisal review, a reviewer must recognize current methods and techniques that are necessary to produce a credible report, must not commit substantial errors, and must not render appraisal review services in a careless or negligent manner.

- SR 3-2 *Problem Identification*. In developing an appraisal review, a reviewer must identify the appraisal review problem and the scope of work to be performed. The reviewer must identify 1) the client, 2) other intended users of the reviewer's opinions, 3) the intended use and **purpose**[410] of the appraisal review, and 4) the work under review including the characteristics of the work under review that are relevant to the intended use and purpose of the appraisal review. The reviewer also identifies 5) ownership interest of the subject property, 6) the date of the report under review and the effective date of the opinions and conclusions in the work under review, 7) the appraiser whose work is under review (unless the identity is withheld by the client), 8) the physical, legal and economic characteristics of the subject property, and 9) any extraordinary assumptions and hypothetical conditions that were encountered.

  The reviewer must also determine the scope of work necessary to produce credible results. Information that should have been available to the original appraiser can be used by the reviewer in developing his or her opinion. Information that would **not** have been available to the original appraiser may also be used by the reviewer but may not be used by the reviewer in developing an opinion of the quality of work of the original appraiser.

- SR 3-3 *Appraisal Review Methods*. In developing an appraisal review, the reviewer must apply appraisal review methods and techniques necessary for credible results. SR 3-3

[410] The **purpose** of an appraisal review assignment relates to the reviewer's purpose which might include determining if the development of the assignment results is credible, if the report is not misleading, if the report complies with USPAP, if any value opinions contained therein are credible, if the work satisfies the client's requirements, if it meets applicable regulations, etc.

establishes requirements applicable to reviews of another appraiser's developed analyses, opinions and conclusions as well as of the report itself. For both, the reviewer is charged with developing the reasons for disagreement, if any, with the work under review.

Consistent with the reviewer's scope of work, the reviewer develops an opinion of the completeness, accuracy, adequacy, relevance, reasonableness and credibility of the analysis, opinions, conclusions or report under review. The appraiser also develops an opinion as to whether the report is appropriate and not misleading within the context of the requirements applicable to that work under review.

When the scope of work requires that the reviewer develop his or her own opinion of value and/or an opinion of another's work, the review must comply with the applicable STANDARD. Specifically:



- If the scope of work requires the personal property review appraiser to develop his or her own **opinion of the quality of work under review**, STANDARD 3 *Appraisal Review, Development* would apply; however,
  - If developing an **opinion of value** for personal property, doing so must be in accordance with STANDARD 7 *Personal Property Appraisal, Development*.



- Regardless of whether developing an opinion of value of an opinion of the quality of the work under review, the appraiser communicates review assignments to the client in accordance with STANDARD 4 *Appraisal Review, Reporting*.

Supplemental reading:

- USPAP STANDARD 3 *Appraisal Review, Development*
- USPAP Advisory Opinion 20 *An Appraisal Review Assignment That Includes the Reviewer's Own Opinion of Value*

STANDARD 4 *Appraisal Review, Reporting*

When reporting the appraisal review assignment results, the appraiser must disclose the scope of work performed and must communicate the analysis, opinion or conclusion in a manner that is **not misleading**. The purpose of STANDARD 4 is to set forth the requirements for the content and level of information required to communicate the results of an appraisal review; however, STANDARD 4 does not dictate the style, form or format for appraisal reports.[411]

- SR 4-1 *General Reporting Requirements*. The appraisal review assignment report must be presented in a manner that is not misleading, must contain sufficient information so that it is understandable, and must clearly and conspicuously disclose all assumptions, extraordinary assumptions, hypothetical conditions, and limiting conditions used in the assignment.
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[411] The form, format, and style of a report are functions of the needs of the intended users and of the appraiser.

The content and level of information detail contained in an appraisal review report will depend on several factors including the needs of the client and other intended users, the intended use of the appraisal review report, and the applicable assignment requirements.

- SR 4-2 *Content of an Appraisal Review Report* contains several elements of information that must (consistent with the intended use of the appraisal review) be included in the appraisal review report including:
    - Identity of the client (unless the client has requested otherwise[412]) and identity of other intended users by name or type.
    - Intended use of the appraisal review and its "purpose."
    - Sufficient information to identify the work under review (including any ownership interest in the property that is the subject of the work under review), the date of the work under review, the effective date of the work under review, and the identity of the appraiser(s) who completed the work under review (unless the identity is withheld by the client).
    - The date of the appraisal review report.
    - Any applicable extraordinary assumptions and hypothetical conditions including a statement that their use might have affected assignment results.
    - Scope of work performed to develop the appraisal review.
    - The extent of assistance provided by those supplying significant appraisal or appraisal review assistance.
    - The reviewer's opinions and conclusions regarding the work under review including any reasons for disagreement.
    - 
      Requirements are also included in SR 4-2 covering assignments in which the scope of work requires the reviewer to develop his or her own opinion of value. If an opinion of value is required to be developed by the reviewing appraiser, that opinion of value must be **developed** in accordance with STANDARD 7 *Personal Property Appraisal, Development* (for personal property).

      If differing from the value opinions found in the appraisal under review, the data and analysis used by the reviewing appraiser to support his or her differing value opinions must match, at a minimum, the reporting requirements of the applicable reporting Standards Rule which, for personal property, would be SR 8-2(a) (applicable when using the Appraisal Report option).
    - A signed certification in accordance with SR 4-3 *Certification*.
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  SR 4-3 *Certification*. Each **written** appraisal review report must contain a signed USPAP certification similar to that shown in this Standards Rule, and each **oral** appraisal review

[412] If the client requested anonymity, state that the identity is withheld at the client's request but is retained in the appraiser's workfile.

report must contain a signed certification in the assignment workfile.

  - A review who signs any part of the appraisal review report including the transmittal letter must also sign a certification.

  - Any reviewer who signs a certification accepts responsibility for all elements of the certification, for the assignment results, and for the contents of the appraisal review report.

  - Any appraiser assisting with the review appraisal who signs the work under review is accepting responsibility as a co-signor of the work.

  - When relying on work done by others who do not sign the appraisal, the signing appraiser is responsible for the decision to rely on their work. The signing appraiser must have a reasonable basis for believing that those individuals who are performing the work are competent and must have no reason to doubt that their work is credible. The names of those appraisers providing **significant appraisal or review assistance** must be noted in the USPAP certification.

  - If the assignment requires a particular non-USPAP certification statement (such as might be the case with certain real estate appraisals) that does not include all of the USPAP-required certification elements, then the appraisal review report must contain a **supplemental** certification which includes the remaining required certification elements.

- SR 4-4 *Oral Appraisal Review Report* states that an oral appraisal review report must, to the extent that it is possible and appropriate, address the substantive matters set forth in SR 4-2 *Content of an Appraisal Review Report.*

  SR 4-4 also refers the reader to the RECORD KEEPING RULE for related requirements regarding the content and maintenance of the assignment workfile. A workfile must be in existence prior to the issuance of a written or oral report, and a written summary of an oral appraisal review report must be added to the workfile within a reasonable amount of time of its issuance. The workfile must contain a summary of the oral report (or a transcript thereof) as well as a copy of the appraiser's signed and dated USPAP certification.[413]

The reporting of the results of an appraisal review is one of the most critical efforts the review appraiser undertakes. The reviewer's efforts in forming and setting forth an opinion as to the completeness, adequacy or reliability of the appraisal report under review may have little meaning if the opinion is not merged into a readable and understandable review report that presents facts and conclusions in a logical and concise manner. Organize the report in a logical manner consistent with USPAP STANDARD 4 *Appraisal Review, Reporting*— clearly stating the facts, assumptions and conclusions.

Note: As with all assignments, the reviewing appraiser must not become an advocate. The reviewer's task is to objectively evaluate the technical aspects of the appraisal under review. As

[413] See the Chapter 12 section entitled *Record Keeping* for a related discussion.

with appraisal reports, the importance of correct spelling, grammar, punctuation and sentence structure with appraisal reviews cannot be overemphasized.

Supplemental reading:

- USPAP STANDARD 4 *Appraisal Review, Reporting*
- USPAP Advisory Opinion 20 *An Appraisal Review Assignment That Includes the Reviewer's Own Opinion of Value*

STANDARD 7 *Personal Property Appraisal, Development*



"Development" is the process of gathering and analyzing information in order to arrive at an opinion or conclusion. STANDARD 7 *Personal Property Appraisal, Development* addresses the substantive aspects of developing a credible appraisal of personal property, but it does **not** cover the USPAP requirements relevant to the appraiser reporting those opinions or conclusions to the client. Reporting requirements are governed by STANDARD 8 *Personal Property Appraisal, Reporting*.

STANDARD 7 requires the appraiser to follow the "appraisal process" beginning with "identifying the appraisal problem" to be solved. Stop! I want to place extra emphasis here. Too many appraisers fail to follow the *appraisal process* or to properly *identify the appraisal problem.* Review these two matters closely and be sure to do both with each and every assignment.



The below section in this Chapter entitled *The Appraisal Process and USPAP* focuses on the seven Steps of the *Appraisal Process*. And Step 1 focuses on *Identifying the Appraisal Problem*. The guidelines for this Step 1 can be found in the very important USPAP SR 7-2 *Problem Identification.*

Only after the appraisal problem has been clearly identified can the appraiser then determine and subsequently perform the scope of work (including identifying the property as well as performing market data research and analysis) necessary to develop credible assignment results.

STANDARD 7 consists of the following six Standards Rules:

- SR 7-1 *General Development Requirements.* An appraiser must recognize current and possibly-changing methods and techniques that are necessary to produce a credible appraisal, must not commit substantial errors of omission or commission,[414] and must not render appraisal services in a careless or negligent manner.[415]

  Must an appraiser be perfect? No. The COMPETENCY RULE addresses the issue of perfection by stating:

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[414] An error of commission is doing something incorrectly such as mistakenly identifying a tea pot as being made of silver-plate when in reality it was made of sterling silver. An error or omission is neglecting to do something that is necessary such as failing to do market data research and using, instead, an unconsidered, off-the-cuff opinion of value.

[415] An example would be making a series of errors that, while each is relatively insignificant, in the aggregate affect the reliability of the report and/or the credibility of the opinions on which it is based.

Perfection is impossible to attain, and competence does not require perfection. However, an appraiser must not render appraisal services in a careless or negligent manner. This Rule requires an appraiser to use due diligence and care.

- SR 7-2 *Problem Identification*[416]. An appraiser must identify the appraisal problem and the scope of work to be performed. The appraiser accomplishes this by making use of information obtained from the client, from other sources believed to be reliable, and through personal inspections of the property.

  The appraiser must identify the client, other intended users, the effective date of the report, the intended use of the appraisal, and the type and definition of value sought. The appraiser also identifies the property itself, its property characteristics that are relevant to value and marketability, the ownership interest being valued, and whether there are any encumbrances on the property such as liens or restrictions.[417]

  When **reasonable** exposure time is a component of the definition of value being used, the appraiser must develop an opinion of reasonable exposure time linked to that value opinion. The appraiser must also disclose that opinion in the report.

  The appraiser also identifies any known assignment conditions such as extraordinary assumptions, limiting conditions, hypothetical assumptions, jurisdictional exceptions or other assignment conditions — but only those assignment conditions that affect the scope of work.

  Having now properly identified the appraisal problem, the appraiser can determine the scope of work that will be necessary to produce credible assignment results. Following this step, the appraiser will then be in a position to ascertain whether or not he or she is sufficiently competent to undertake the assignment. If so, the appraiser can accept the assignment and continue with the next step of the Appraisal Process which is to perform the scope of work deemed necessary to produce credible assignment results.[418]

  Supplemental readings relating to SR 7-2:

  - USPAP Advisory Opinion 2 *Inspection of Subject Property*
  - USPAP Advisory Opinion 35 *Reasonable Exposure Time in Real and Personal Property Opinions of Value*
  - USPAP Advisory Opinion 36 *Identification and Disclosure of Client, Intended Use, and Intended Users*

- SR 7-3 *Property's Use, Market, and Relevant Economic Conditions*. The appraiser must "*analyze the property's current use and alternative uses as relevant to the type and*

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[416] Standards Rule 7-2 *Problem Identification* follows the first two steps of the appraisal process (i.e., *Identify the Appraisal Problem* and *Determine the Scope of Work*) both of which are discussed in detail later in this Chapter in the below section entitled *The Appraisal Process and USPAP*.

[417] The type of property, the intended use of the appraisal, and the type and definition of value will determine which property characteristics are relevant and necessary to identify. See the Chapter 10 section entitled *Descriptions May Vary* for an additional discussion.

[418] See the Chapter 7 section entitled *COMPETENCY RULE* for information regarding steps the appraiser must take if the appraiser feels that he or she does not have the competency required to produce credible results.

definition of value and intended use of the appraisal." For personal property, this equates to making a determination of the most appropriate market (or in some cases market level) consistent with the intended use of the appraisal and the type and definition of value being used. The appraiser must consider various uses when viable alternative uses exist and when such alternative uses might result in a different value.

The appraiser must define and analyze the most appropriate market that is consistent with the type and definition of value.

The appraiser also analyzes related economic conditions such as the property's marketability, and its level of supply and demand.

- SR 7-4 *Approaches to Value*. The appraiser must collect, verify, and analyze all information necessary for arriving at credible results, given the scope of work of the assignment and depending on the approach to value being used (sales comparison? cost? income?). For instance, when using the sales comparison approach, the appraiser would document comparable sales on which value conclusions were based.

  The appraiser must analyze the effect that any liens or encumbrances, if any, have on the subject property.

  - An encumbrance exists when the owner of the property is prohibited from exercising one of their traditional rights of ownership. Examples include a constraint on the donee exhibiting a donated work of art, or a prohibition against a museum selling a donated property within the first three years of it being donated.

  - A lien or an encumbrance by itself does not necessarily affect value. While the owner's equity in the property might be affected or rights might be constrained, it just might be that the value is entirely unaffected by the encumbrance or lien. If there is no effect on value, then no further analysis is required. (2020-2021 USPAP FAQ #222)

  When appraising multiple properties, the appraiser must consider their relative significance and focus his or her analyses in proportion to the significance that the individual assets have on assignment results. In other words, spend more time researching the 19th century armoire than the 21st century refrigerator!

  The appraiser must also analyze proposed alterations to the subject property, the effect that performing a fractional appraisal of a part of an assemblage has on the whole collection, and whether or not there are any non-personal property items included in the assignment.[419]

- SR 7-5 *Sale Agreements, Options, Listings and Prior Sales*. When necessary for developing credible assignment results, the appraiser must (to the extent such information is available in the normal course of business) analyze current agreements of sale of the subject property, validated offers to sell the subject property, listings of the subject

[419] Remember, the value of the individual parts of an assemblage may be worth more than, less than, or be equal to the value of the whole property. See the Chapter 5 section entitled *Fractional Appraisals.*

property, and any prior sales of the subject property that have occurred within a reasonable and applicable time period.[420], [421]

- SR 7-6 *Reconciliation*. The appraiser must reconcile the data available and analyzed within the approaches used, and must reconcile the applicability and relevance of the approaches used in order to arrive at the value conclusions.

Supplemental reading:

- USPAP STANDARD 7 *Personal Property Appraisal, Development*
- USPAP Advisory Opinion 1 *Sales History*
- USPAP Advisory Opinion 21 *USPAP Compliance*
- USPAP Advisory Opinion 24 *Normal Course of Business.*
- USPAP Advisory Opinion 34 *Retrospective and Prospective Value Opinions*

STANDARD 8 *Personal Property Appraisal, Reporting*



A "report" is any communication (either written or oral) of an appraisal or appraisal review assignment that is transmitted to the client (or to a client-authorized third party) upon completion of the assignment.[422]



STANDARD 8 *Personal Property Appraisal, Reporting* addresses the content and level of information required to be in any report that communicates the results of a personal property appraisal assignment.[423] STANDARD 8 does not, however, dictate the form, format or style for appraisal reports. Such features are dictated by the needs of the intended users as well as by the appraiser's personal preference.

STANDARD 8 addresses general reporting requirement as well as the requirements of the two report options (Appraisal Report option and the Restricted Appraisal Report option)—one of which must be used and properly identified for each appraisal report. STANDARD 8 also requires that an appraiser-signed USPAP certification be included in all appraisal reports (including in the workfile for oral reports) as evidence of the appraiser's acknowledgement of his or her ethical obligations.

- SR 8-1 *General Reporting Requirements*. Each written or oral personal property appraisal report must clearly and accurately set forth the appraisal in a manner that will **not be**

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[420] Notice that SR 7-5 *Sale Agreements, Options, Listings, and Prior Sales* does **not** require the consideration or analysis of **offers to purchase the property.** A mere offer to buy does not correlate to the property's value or even to the owner's desire to sell. On the other hand, agreements of sale are significant because they reflect a meeting of the minds between seller and would-be buyer. And a listing for sale is significant as well since it represents the property's availability in the market. (2020-2021 USPAP FAQ #246)

[421] See USPAP AO-1 *Sales History* for a discussion regarding the need for analyzing agreements of sale, options, listings and certain past sales of the subject property.

[422] For an expanded discussion regarding the required elements of information for appraisal reports see the Chapter 11 sections entitled *Required Content When Using the "Appraisal Report" Option* and *Required Content When Using the "Restricted Appraisal Report" Option*.

[423] "Assignment results" are not limited to an opinion of value. They also include any other opinions or conclusions that were developed while performing the appraisal or appraisal review assignment.

misleading. Reports shall contain sufficient information to enable the intended users of the appraisal to **understand** the report properly. Reports shall clearly and accurately **disclose** any existing assignment conditions encountered in the appraisal such as assumptions, extraordinary assumptions, hypothetical conditions, limiting conditions, or jurisdictional exceptions.

- SR 8-2 *Content of a Personal Property Appraisal Report*. Each written personal property appraisal report must be prepared making use of either the Appraisal Report or Restricted Appraisal Report option and must prominently state which option is used. Standards Rule 8-2 lists the several specific elements of information that must be included within the appraisal report depending on the report option being used.

    - SR 8-2(a) sets forth minimum content of an Appraisal Report noting that the content must be appropriate for the intended use of the appraisal.

    - SR 8-2(b) sets forth minimum content of a Restricted Appraisal Report noting that the content must be appropriate for the intended use of the appraisal.

    As noted, the above-mentioned SR 8-2(a) and SR 8-2(b) each lists the many elements of information required to be included in their respective report options. For an expanded discussion regarding these required elements of information see the Chapter 11 sections entitled *Required Content When Using the "Appraisal Report" Option* and *Required Content When Using the "Restricted Appraisal Report" Option*.

    SR 8-2 also admonishes the appraiser to avoid attempting to circumvent the need to comply with USPAP by using assignment labels other than those set forth in SR-8-2. *"The use of additional labels such as analysis, consultation, evaluation, study, or valuation does not exempt an appraiser from adherence to USPAP."*

- SR 8-3 *Certification*. Each written or oral personal property appraisal report (as well as the assignment workfile) must contain a signed USPAP certification similar to that shown in this Standards Rule. The wording need not exactly match that shown in USPAP SR 8-3(a), but each element must be addressed, regardless.

    An appraiser who signs any part of the appraisal report including the transmittal letter must also sign a certification.

    - For assignments having results developed by appraisers of the same specialty area, appraiser who sign the certification accept full responsibility for all elements of the certification, for all assignment results, and for the contents of the report.

    - For assignments having results developed by appraisers from different specialty areas, each appraiser who signs the certification may accept responsibility only for the elements of the certification, assignment results and contents of the report specific to the appraiser's specialty.



- For assignments including non-personal property such as real property or intangible assets not developed by the personal property appraiser, any personal property appraiser who signs the certification accepts full responsibility only for the personal property elements of the certification, of the assignment results and of the appraisal report.

- When relying on work done by others who do not sign the appraisal, the signing appraiser is responsible for the decision to rely on their work. He or she must have a reasonable basis for believing that those individuals who are performing the work are competent and must have no reason to doubt that their work is credible. The names of those appraisers providing **significant personal property appraisal assistance** must be noted in the USPAP certification.

- SR 8-4 *Oral Appraisal Report.* Oral reports are the focus of this SR 8-4. An oral personal property appraisal report must, at a minimum, address the **substantive matters** set forth in SR 8-2(a) which delineates the requirements for the Appraisal Report option.

  What are *substantive matters*? AO-38 *Content of an Appraisal Report and Restricted Appraisal Report* states that they are *"matters of major or practical importance to all concerned."* An example might be regarding identifying the subject property. While property characteristics are certainly "substantive matters" (so must be addressed orally) it is not always necessary to address such matters as the property interest being appraised or which of the three approaches to value were excluded from consideration. Such matters might not be considered "substantive."

  The Comment to SR 8-4 also refers the reader to the RECORD KEEPING RULE[424] for related requirements regarding the content and maintenance of the assignment workfile for an oral report. This RULE states that:

  - A workfile must be in existence prior to the issuance of a written or oral report.

  - A written summary of the oral report must be added to the workfile within a reasonable amount of time of its issuance.

  - The workfile must contain a summary of the oral report (or a transcript thereof) as well as a copy of the appraiser's signed and dated USPAP certification.

Supplemental readings relating to STANDARD 8:

- The Chapter 11 section of this book entitled *Required Content Depends on Which Report Option Used*
- USPAP STANDARD 8 *Personal Property Appraising, Reporting*
- USPAP RECORD KEEPING RULE
- USPAP Advisory Opinion 26 *Readdressing (Transferring) a Report to Another Party*
- USPAP Advisory Opinion 27 *Appraising the Same Property for a New Client*
- USPAP Advisory Opinion 31 *Assignments Involving More than One Appraiser*
- USPAP Advisory Opinion 35 *Reasonable Exposure Time in Real and Personal Property Opinions of Value*

[424] See the Chapter 12 section entitled *Record Keeping* for a related discussion.

- USPAP Advisory Opinion *38 Content of an Appraisal Report and Restricted Appraisal Report*

Six USPAP STANDARDS Governing the Real Property and Business Property Appraiser

Above we discussed the above four USPAP STANDARDS governing the performance of the **personal property** appraiser while performing **appraisals** and **appraisal reviews**. What follows is a brief discussion of the remaining six USPAP standards governing the performance of real property appraisals, mass appraisals, and business property[425] appraisals.

STANDARD 1 *Real Property Appraisal, Development* and STANDARD 2 *Real Property Appraisal, Reporting*

STANDARDS 1 and 2 cover **real property appraisal development** and **real property appraisal reporting**, respectively. Though there are differences, the requirements for real property appraisal development and reporting found in STANDARDS 1 *Real Property Appraisal, Development* and *2 Real Property Appraisal, Reporting* closely mirror those for personal property in STANDARDS 7 *Personal Property Appraisal, Development* and 8 *Personal Property Appraisal, Reporting*, and those for business valuations in STANDARDS 9 *Business Appraisal, Development* and 10 *Business Appraisal, Reporting*.

One of the differences between real property appraising and personal property appraising is the difference in the type of relevant characteristics that must be identified. For real property, the appraiser must identify its location and physical, legal and economic characteristics, any known easements, restrictions, covenants, etc.

Note that some **real property** appraisals include articles of tangible **personal property** within the total real property being appraised. If tangible personal property is incorporated within or adds to the value of the total real property, the provisions of STANDARDS 7 and 8 (governing appraising personal property) would apply in addition to STANDARDS 1 and 2 which govern the appraisal of only the real property. Moreover, in real property assignments incorporating personal property, the COMPETENCY RULE requires that the appraiser have the skills and experience necessary to value personal property in addition to real property. Optionally, the real property appraiser could make use of the services of a personal property appraiser to assist in valuing the personal property.

Supplemental reading:

- USPAP STANDARD 1 *Real Property Appraisal, Development*
- USPAP STANDARD *2 Real Property Appraisal, Reporting*

[425] "Business" property includes business enterprise, business equity as well as intangible property (intangible assets).

STANDARD 5 ***Mass Appraisal, Development*** and **STANDARD 6** ***Mass Appraisal, Reporting***

USPAP defines a *Mass Appraisal* as:

> *MASS APPRAISAL: the process of valuing a universe of properties as of a given date using standard methodology, employing common data, and allowing for statistical testing.*

STANDARDS 5 *Mass Appraisal, Development* and 6 *Mass Appraisal, Reporting*, while applicable primarily to the real property appraiser, can also have implications for the personal property appraiser but usually only those involved in appraisals being conducted for the intended use of ad valorem tax purposes. Such personal property appraisals are typically done by governmental tax assessors and not by fee appraisers such as are most personal property appraisers.



On occasion, the personal property appraiser encounters a large quantity of articles – sometimes hundreds or even thousands of collectibles, letters, photographs, prints, etc. Are such assignments Mass Appraisals subject to the STANDARDS 5 and 6? No. USPAP requires that for any appraisal assignment the appraiser must be competent in the relevant analytical methods which, in the case of Mass Appraisals, would include statistical analysis. Personal property appraisers are typically insufficiently competent in statistical analysis; therefore, while an opinion of value of a large number of items can be developed by making use of either STANDARD 5 *Mass Appraisals, Development* or STANDARD 7 *Personal Property, Development*, the personal property appraiser typically make use of the latter. (2020-2021 USPAP FAQ #231)

Is it necessary for the personal property appraiser to make use of Mass Appraisal STANDARDS 5 and 6 when appraising a large group of similar or like items? Absolutely not. A Mass Appraisal is merely an appraisal methodology which may or may not be appropriate to a particular assignment.[426] It's application would depend on several factors including the intended use of the appraisal results. I cannot envision a personal property appraiser ever making use of the Mass Appraisal methodology in any circumstance other than for the ad valorem tax purpose mentioned above.



Note that (because the administration of ad valorem taxes is subject to various state, county, and municipal laws and not necessarily on the requirements of USPAP) the JURISDICTIONAL EXCEPTION RULE discussed above may apply to various sections of STANDARDS 5 and 6 with some frequency.[427]

Supplemental readings:

- USPAP STANDARD 5 *Mass Appraisal, Development*
- USPAP STANDARD 6 *Mass Appraisal, Reporting*
- USPAP Advisory Opinion 18 *Use of an Automated Valuation Model (AVM)*

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[426] USPAP does not dictate the use of any particular appraisal methodology or technique for any particular type of assignment or under any particular set of assignment circumstances.
[427] See the Chapter 4 section entitled *Ad Valorem Property Tax Appraisals* for a related discussion.

- USPAP Advisory Opinion 32 *Ad Valorem Property Tax Appraisal and Mass Appraisal Assignments*

STANDARD 9 *Business Appraisal, Development* and STANDARD 10 *Business Appraisal, Reporting*

STANDARDS 9 and 10 cover **business enterprise, business equity or intangible property appraisal development** and **reporting**, respectively. The DEFINITIONS section of USPAP contains specific definitions for terms used in these two STANDARDS including "Business Enterprise," "Business Equity," and "Intangible Property (Intangible Assets)." There are no separate, specific STANDARDS for the valuation of **intangible** property (securities, copyrights, trademarks, customer lists, goodwill, patents, etc.); rather, the general procedures for the appraisal of intangible property are included within the specifications and requirements of STANDARDS 9 and 10.

At times, the business appraiser recognizes that continued operation of the business may not be the best measure of value, and that liquidation of company assets needs to be analyzed. In such a scenario, his scope of work may include an appraisal of real property as well as tangible personal property by appraisers having competency in those types of property. Under these circumstances, the provisions of STANDARDS 9 and 10 would be applicable to the intangible assets of the business, STANDARDS 1 *Real Property Appraisal, Development* and *2 Real Property Appraisal, Reporting* would apply to valuing the real property assets, and STANDARDS 7 *Personal Property Appraisal, Development* and 8 *Personal Property Appraisal, Reporting* would apply to valuing the personal property assets.



Note that SR 9-2(c) makes use of the term "**standard and definition of value and the premise of value**" rather than the term "**type and definition of value**" as used with personal property appraisals in SR 7-2(c) and with real property appraisals in SR 1-2(c). Another difference is the type of relevant property characteristics required to be identified. For business property, characteristics such as the **degree of control and marketability** become of critical importance.

Like STANDARDS 2 and 8, STANDARD 10 also makes use of **two** appraisal report options: the **Appraisal Report** and the **Restricted Appraisal Report**.

Supplemental reading:

- USPAP STANDARD 9 *Business Appraisal, Development*
- USPAP STANDARD 10 *Business Appraisal, Reporting*

Comments as Used in USPAP

Comments are an integral part of USPAP. As extensions of the DEFINITIONS, the five RULES, and the ten STANDARDS, Comments provide interpretation and establish the context and conditions for application of the issue being addressed. Comments **carry the same weight** as the component to which they are attached.

Other Communications from the Appraisal Standards Board

The Appraisal Standards Board provides guidance regarding USPAP in the form of what is referred to as "other communications." The "other communications" include primarily *Advisory Opinions (AO)* and *Frequently Asked Questions (FAQ).*[428], [429], [430]

- **Advisory Opinions** offer advice and illustrations based on presumed conditions.
- **Frequently Asked Questions** are issued in response to questions raised by appraisers, users of appraisal services, the public and state enforcement officials.

These other communications are not a part of USPAP. They neither establish new standards nor do they interpret existing standards. As such, they are **not enforceable** parts of USPAP and do not require public exposure and comment before being issued.

Both *AO* as well as *FAQ* are issued to **illustrate** the applicability of appraisal standards in specific situations and to **offer advice** from the ASB for the resolution of appraisal issues and problems. Technically, these forms of guidance are not intended to represent the only possible solution to the issue or problem being discussed.

Supplemental reading:

- USPAP *Advisory Opinions*
- USPAP *Frequently Asked Questions*

USPAP Certification

The USPAP certification represents evidence that the opinions, analyses and conclusions expressed in the report are those of the signing appraiser. It is also evidence that the appraiser is aware of his or her ethical obligations of acting as an appraiser.

USPAP SR 8-3 *Certification* (for personal property appraisal reports) requires that a **signed** USPAP certification similar to the below be included in all assignment reports in order for the report to be USPAP-compliant. SR 2-3 *Certification* (for real property appraisal reports), SR 4-3 *Certification* (for appraisal reviews reports), SR 6-3 *Certification* (for mass appraisal reports), and SR 10-3 *Certification* (for business property appraisal reports) also require a signed, though slightly varied, USPAP certification. Note that it is not necessary that the certification match the below verbatim, but each of the below elements must be addressed.

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[428] Note that prior to the 2016-2017 edition of USPAP, "other communications" also included STATEMENTS ON APPRAISAL STANDARDS (SMT). However, effective with the 2016-2017 edition of USPAP, all SMT have been retired.

[429] When USPAP itself is combined with the AO and FAQ, the resulting combined volume is referred to as the **USPAP Publication**.

[430] "Other communications" also include periodic *USPAP Q&A*, though Q&A are not found within the USPAP publication. Like AO and FAQ, Q&A do not establish new Standards, do not interpret USPAP and are not part of USPAP. They merely offer advice from the ASB by illustrating the applicability of USPAP in specific situations. Q&As can be found at https://appraisalfoundation.org/imis/TAF/Standards/.

I certify that, to the best of my knowledge and belief:

- *The statements of fact contained in this report are true and correct.*
- *The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.*
- *I have **no (or the specified)** present or prospective interest in the property that is the subject of this report, and I have **no (or the specified)** personal interest with respect to the parties involved.*
- *I have performed **no (or the specified)** services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding the agreement to perform this assignment.*
- *I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.*
- *My engagement in this assignment was not contingent upon developing or reporting predetermined results.*
- *My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.*
- *My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.*
- *I **have (or have not)** made a personal inspection of the property that is the subject of this report. **(If more than one person signs the report, this certification must clearly specify which individuals did and which individuals did not make a personal inspection of the appraised property.)***
- *No one provided significant personal property appraisal assistance to the person signing this report. **(If there are exceptions, the name of each individual providing significant personal property appraisal assistance must be stated.)***



In the below Comment to SR 8-3(b), USPAP sets forth certificate signature requirements for assignments making use of more than one appraiser. Assisting appraisers from differing specialty areas need only take responsibility for assignment content and results related to their specialty area.



Comment: In an assignment that includes only assignment results developed by the personal property appraiser(s) from the same personal property specialty, any appraiser(s) who signs a certification accepts full responsibility for all elements of the certification, for the assignment results, and for the contents of the

appraisal report. In an assignment involving appraisers with expertise in different specialties (e.g., antiques, fine art, or machinery and equipment), an appraiser who signs the certification may accept responsibility only for the elements of the certification, assignment results, and report contents specific to the appraiser's specialty. The role of each appraiser signing the certification must be disclosed in the report.



In an assignment that includes real property, business or intangible asset assignment results not developed by the personal property appraiser(s), any personal property appraiser(s) who signs a certification accepts full responsibility for the personal property elements of the certification, for the personal property assignment results, and for the personal property contents of the appraisal report.

For **real property appraisers**, the USPAP certification is the bridge that connects the ETHICS RULE and the COMPETENCY RULE with enforcement by state real property appraiser licensing and certification agencies, federal financial regulatory agencies, and by the appraisers' professional appraisal organizations. No such bridge with the state exists or is required for the personal property appraiser since personal property appraisers are not so regulated.

The appraiser may sign other sections of the appraisal report, but, at a minimum, every appraisal must contain a signed USPAP certification. Note that the signature does not have to be specifically appended to the certification; however, the signature must reflect the appraiser's embrace of the certification. The certification, for instance, could be embedded in the transmittal letter. The transmittal letter, then, would be signed by the appraiser at the end in typical business letter style.



As noted above in SR 8-3(b), the primary appraiser must ensure that any appraiser who provides significant personal property appraisal assistance to the assignment either sign the USPAP certification (thereby taking responsibility for his or her particular assignment results as indicated in the certification), or be identified **by name** by the signing appraiser in the certification as having provided significant personal property appraisal assistance with the assignment.

Modifying the Certification

The certification must be customized for all assignments in order to address the four issues that are in bold in the above certification example. They include issues involving:

- Having a past or prospective interest in the subject property or parties
- Having performed services regarding the subject property in the prior three years
- Which of the signing appraisers personally did or did not inspect the subject property
- The identities of those providing significant personal property appraisal assistance with the assignment
- In addition, the certification must be modified with assignments making use of a team of appraisers, each of whom is to sign a certification that has been modified in such a way

> so that each appraiser is acknowledging responsibility only for that portion of the assignment results which they had developed.[431]

None of the reporting STANDARDS require that the certification be exactly as shown in USPAP—only that it be **similar**. On occasion, the appraiser will need to modify the certification to suit the assignment. In general, the appraiser may modify or add to the certification in any way necessary.[432] (2020-2021 USPAP FAQ #267)

The Appraisal Process and USPAP

The **appraisal process** is a step-by-step model for solving appraisal problems regardless of whether it is for real, personal, or business property appraisal assignments. It is this appraisal process on which the standards for appraisal practice are based, hence the importance of understanding the "appraisal process." USPAP divides the appraisal process into seven action steps.



The first six action steps of the appraisal process for **personal property** appraisal assignments are governed by USPAP STANDARD 7 *Personal Property Appraisal, Development* and they include:

> **Step 1**: Identify the Appraisal Problem. This step requires that the following assignment elements be identified:
>
> - Identify the client and other intended users
> - Identify the intended use of the appraiser's opinions and conclusions
> - Identify the type and definition of value to be used, cite source of definition, develop opinion of exposure time (if necessary)
> - Identify the effective date of the appraiser's opinions and conclusions



> - Identify the subject property and the property characteristics that are relevant to the type and definition of value and to the intended use of the appraisal; identify ownership interest being appraised and any encumbrances, if any, on the property (liens, restrictions, etc.)
> - Identify any applicable assignment conditions (limiting conditions, extraordinary assumptions, hypothetical conditions, jurisdictional exceptions, and any other assignment conditions **that affect the scope of work**)



> - Identify any real property, business property or intangible assets that are included in the assignment, if any

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[431] See the Chapter 5 section entitled *Team Appraisals* for a discussion and examples regarding modifying the certification when there is a team of appraisers working on a single assignment.

[432] An example of a common modification would apply to appraisers belonging to a professional appraisal association that itself requires the USPAP certification to include an additional supplementary statement attesting to the appraisal being performed in compliance with its own societal standards.

Step 2: Determine and perform the Scope of Work necessary to produce credible assignment results



Step 3: Analyze the property's current use (and alternative uses as necessary)[433]; define and analyze the appropriate market that is consistent with the type and definition of value; analyze relevant economic conditions (marketability, rarity, supply and demand)

Step 4: Collect and analyze data, apply the most appropriate approach(es) to value



Step 5: Analyze listings or prior sales, but only if necessary to achieve credible assignment results.

Step 6: Reconcile value indicators; arrive at final opinion of value

STANDARD 8 *Personal Property Appraisal, Reporting* addresses the seventh and final step of the process:

Step 7: Communicate assignment results to client

Development Phase of the Appraisal Process

"Development" is the process of gathering and analyzing the information necessary to arrive at an opinion or conclusion. The purpose of the development phase is to form credible opinions and conclusions in a competent and ethical manner. It is the appraiser's responsibility to perform whatever analysis is required in order to develop **credible assignment results**. This phase is governed by USPAP STANDARD 7 *Personal Property Appraisal, Development* and is restricted solely to **developing** opinions and conclusions—it does not include requirements pertaining to the actual reporting of those opinions and conclusions to the client. Reporting requirements are addressed by STANDARD 8 *Personal Property Appraisal, Reporting* which we will discuss below.

The first six of the above seven action steps involve the development phase—guidance for which is provided by SR 7-2 *Problem Identification* through SR 7-6 *Reconciliation* for **personal** property appraisal assignments. The actions that are part of the development phase of an appraisal assignment include: identifying, determining, analyzing, collecting, verifying, and reconciling. As an example, the appraiser must "identify the effective date of the appraiser's opinions and conclusions."

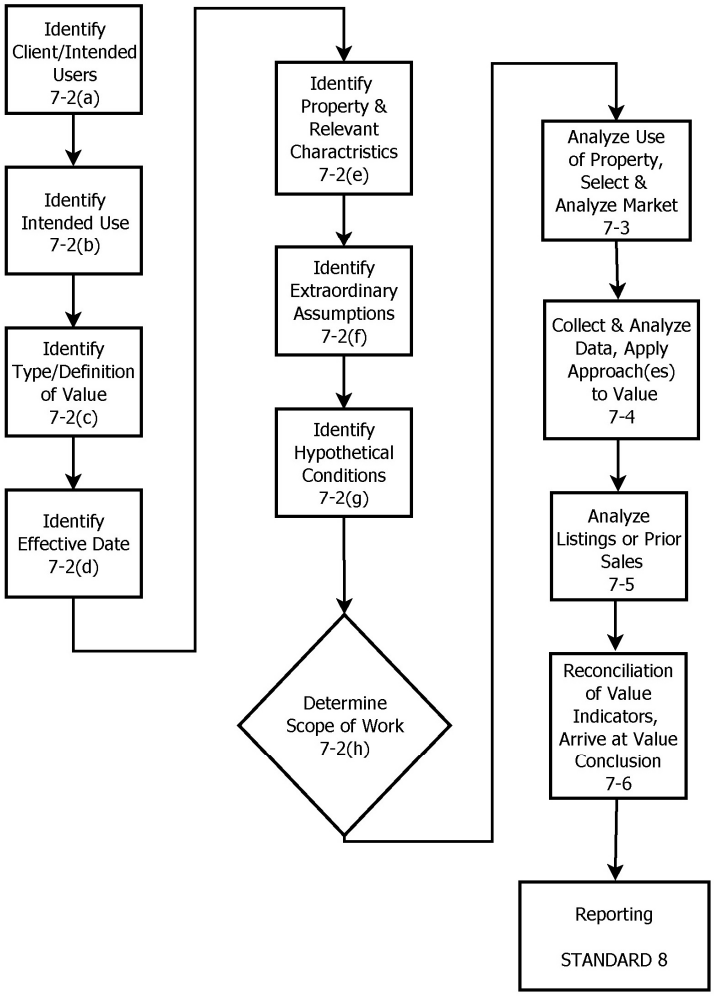
STANDARD 7 begins with Standards Rules 7-1(a) through (c) which note the general requirements mentioned earlier regarding the development phase of an appraisal assignment. The balance of STANDARD 7 (Standards Rules 7-2 through 7-6) establishes the **first six action steps of the appraisal process**, beginning with the all-important Step 1—identifying the appraisal problem.[434]

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[433] For personal property, viable alternative uses may result in differing values.

[434] Note that this discussion focuses on the appraisal process as it pertains to personal property. The same type of process is also addressed in STANDARDS 1 *Real Property Appraisal, Development* and *2 Real Property Appraisal, Reporting* as it relates to real property and in STANDARDS 9 *Business Appraisal, Development* and 10 *Business Appraisal, Reporting* as it relates to business property.

The below flow chart[435] will help you to better visualize the appraisal process which, in effect, begins with Standards Rule 7-2 *Problem Identification* (the first action step in the appraisal assignment development phase) and ends with STANDARD 8 *Personal Property Appraisal, Reporting* (communicating the assignment results to the client). The flow chart illustrates the sequence of steps leading up to the appraiser's scope of work decision and then on to the completion of the appraisal process:



Step 1: (Reference the above flow chart SR 7-2 (a) through (g))

UPDATE **Define the appraisal problem**. In Step 1 the appraiser gathers important information regarding the below-listed assignment elements. Assignment elements are specific information that is needed in order to identify the appraisal or appraisal review problem. Other than the relevant characteristics of the subject property, the appraiser typically obtains the balance of this information during the initial client interview. Problem identification is the most

[435] Flow chart is based on USPAP AO-22 Scope of Work in Market Value Appraisal Assignments for Real Property

important element of the appraisal process. If the assignment problem is misidentified, credible assignment results cannot possibly be achieved.[436]

In this "problem identification" step the appraiser:

- SR 7-2(a) Identifies the client and other intended users of the report.
- SR 7-2(b) Identifies the intended use of the appraiser's opinions and conclusions.
- SR 7-2(c) Identifies the type and definition of value to be used in the assignment.
- SR 7-2(d) Identifies the effective date of the appraiser's opinion or conclusions.
- SR 7-2(e) Identifies, from sources the appraiser reasonably believes to be reliable, the subject property and its relevant characteristics including the ownership interest being valued as well as any known restrictions or encumbrances regarding the property (if relevant to the assignment). The appraiser must also develop an opinion of reasonable exposure time, but only if exposure time is a component of the value definition (and it often is not).
- SR 7-2(f, g) Based on the above information thus far obtained in Step 1, the appraiser determines what, if any, assignment condition will apply such as any:
    - Limiting conditions
    - Extraordinary assumptions
    - Hypothetical conditions
    - Jurisdictional exceptions
    - Other assignment conditions, but only those other assignment conditions that affect scope of work, and many do not.

Supplemental readings:

- USPAP Advisory Opinion 2 *Inspection of Subject Property*
- USPAP Advisory Opinion 22 *Scope of Work in Market Value Appraisal Assignments for Real Property*
- USPAP Advisory Opinion 36 *Identification and Disclosure of Client, Intended Use, and Intended Users*

Step 2: (Reference the above flow chart SR 7-2 (h))

Determine scope of work. With the information gathered in Step 1, the appraiser determines the scope of work that will be necessary for him or her to perform in order to develop credible assignment results. The scope of work is the extent to which the property is inspected and identified. It also includes the type and extent of data researched, and the type and extent of analyses applied to arrive at an opinion or conclusion. Scope of work might include the use of other appraisers or experts to assist with the assignment.

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[436] See the Chapter 3 section entitled *Assignment Elements Serve to Identify the Problem* for a related discussion regarding the six elements of problem identification.

Accepting the Assignment

Note that the appraiser is prohibited by USPAP's COMPETENCY RULE from agreeing to perform the assignment until such time as the appraiser has properly **identified the appraisal problem**, has determined the scope of work, and has made the determination that he or she has the knowledge and experience to complete the assignment **competently**. Assuming the appraiser has so determined, he or she may now accept the assignment and proceed with Step 3 in order to begin performing the necessary scope of work.

Step 3: (Reference above flow chart SR 7-3)

Analyze property's use, define the appropriate market, analyze economic conditions. In Step 3 the appraiser begins performing the scope of work determined necessary in Step 2. The appraiser begins by analyzing the current use of the subject property as well as alternative uses (as relevant to the type and definition of value and intended use of the appraisal) if such alternative uses may result in a different value. For personal property, value will be a function of the choice of **appropriate market** (or market level) which itself will be based on the type of item, the type and definition of value being used, and the intended use of the appraisal. The appraiser defines and analyzes the most appropriate market (consistent with the type and definition of value being used) and analyzes relevant economic conditions such as acceptability and marketability of the property, its supply and demand, rarity, scarcity, etc.

Supplemental readings:

- USPAP Advisory Opinion 7 *Marketing Time Opinions*
- USPAP Advisory Opinion 35 *Reasonable Exposure Time in Real and Personal Property Opinions of Value*

Step 4: (Reference above flow chart SR 7-4*)*

Collect and analyze data, apply approach to value. The appraiser now collects, verifies and analyzes all information necessary to arrive at credible assignment results including:

- Comparable sales data when making use of the sales comparison approach,
- Comparable cost data and relevant depreciation if using the cost approach, and
- Supporting data (projected market income and expense data, rate of capitalization) if using the income approach.

The appraiser applies whichever of these three approaches to value were deemed necessary in order to produce a credible opinion or conclusion. The appraiser also discloses those approaches to value which, while considered, were excluded from the analysis and why.

When appraising numerous properties of varying values, the appraiser will focus a greater analysis on those properties which will have a more significant impact on assignment results.

When valuing a part of a whole property (i.e., a fractional appraisal), the appraiser considers the value of the part as a stand-alone fraction as well as the impact the individual part has on the

value of the whole property. In addition, when valuing a collection, pair, set, or suite, the appraiser considers whether or not the value of the assemblage is merely an aggregate of the value of the separate parts, or if, instead, a premium in value is added because the collection, pair, set, or suite is complete. The appraiser also analyzes the effect on value of any anticipated modifications to the subject property.[437]

Supplemental readings:

- USPAP Advisory Opinion 34 *Retrospective and Prospective Value Opinions*

Step 5: (Reference above flow chart SR 7-5)



Analyze listings, offers to sell, prior sales. When necessary for credible results and as such information is available in the normal course of business, the appraiser should:

- Analyze all agreements of sale, validated offers or third-party to sell, options, and listings of the subject property existing as of the effective date of the appraisal (but only if warranted by the intended use of the appraisal).

- Analyze prior sales of the subject personal property that have occurred **within a reasonable and applicable time period** (but only if relevant given the type of property and the intended use of the appraisal).

Note that SR 7-5 *Sale Agreements, Options, Listings, and Prior Sales* requires that the appraiser analyze **all** subject personal property agreements of sale, options, listings, and (if occurring within a reasonable time) past sales when necessary for credible results. If more than one instance of past sales had occurred, it is not sufficient to analyze only the most recent sale. For instance, if the subject property had been sold four times within a past reasonable time period, all four instances must be analyzed and reported if relevant to the appraisal of the subject property. (2020-2021 USPAP FAQ #245)

Supplemental reading:

- USPAP Advisory Opinion 1 *Sales History*
- USPAP Advisory Opinion 24 *Normal Course of Business*

Step 6: (Reference above flow chart SR 7-6)

Reconcile value indicators, develop final value opinion of value. Step 6 is the final step in the assignment's **development** phase. In Step 6 the appraiser reconciles the quality and quantity of data available and analyzed within the approach(es) used. The appraiser also analyzes the applicability and relevance of the value approach(es) and appraisal techniques—making use of only those approaches and techniques that are considered relevant and necessary. From his or her final analysis, the appraiser then arrives at a value conclusion.

[437] See the Chapter 5 section entitled *Fractional Appraisals.*

Supplemental reading:

- STANDARD 7 *Personal Property Appraisal, Development*

Reporting Phase of the Appraisal Process

The seventh and final step addresses the **reporting phase** of the appraisal process, the requirements for which are the subject of USPAP STANDARD 8 *Personal Property Appraisal, Reporting* for personal property appraisal reports. The actions that are part of the reporting phase of an assignment include: disclose, state, contain, summarize, provide, and include. As an example, the appraiser must "state the effective date of the appraisal."

USPAP defines a *Report* as:

> *REPORT: any communication, written or oral, of the results of an appraisal or appraisal review that is transmitted to the client or a party authorized by the client upon completion of an assignment.*

In STANDARD 8, USPAP addresses the content and level of information detail required for each of the two appraisal reporting options (Appraisal Report and Restricted Appraisal Report) but does not dictate form, format or style of the reports.

Step 7: (Reference above flow chart STANDARD 8)

Communicate assignment results to client. Step 7 is the final step in the appraisal process and involves the assignment's **reporting** phase. The appraiser communicates the appraisal report either in writing or orally, but note that STANDARD 8 does not dictate the form, format, or style of appraisal reports. The appearance of the report is the appraiser's personal business decision; regardless, reports must be clear, accurate and must not be misleading. Reports must contain enough information so that they can be properly understood (by the client and any other intended users)—including a disclosure of any assignment conditions encountered and that affect the scope of work (e.g., limiting conditions, hypothetical conditions, extraordinary assumptions, jurisdictional exceptions, etc.).

STANDARD 8 lists in detail the required content for each appraisal depending on which of the two appraisal report options is being used—the Appraisal Report option or the Restricted Appraisal Report option. A signed USPAP certification must be included in any appraisal report, whether the appraisal report is transmitted to the client in writing or orally. Appraisers providing significant appraisal assistance to the assignment must either sign the USPAP certification or be identified by name in the certification.[438]

Supplemental readings:

- STANDARD 8 *Personal Property Appraisal, Reporting*
- USPAP Advisory Opinion 26 *Readdressing (Transferring) a Report to Another Party*

[438] Refer to the following section entitled *Deciding Which Report Option to Use* and to the Chapter 11 section entitled *Required Content Depends on Report Option Used* for elements of information required by USPAP to be included in the appraisal report depending on whether the report option being used is the Appraisal Report option or the Restricted Appraisal Report option.

- USPAP Advisory Opinion 27 *Appraising the Same Property for a New Client*
- USPAP Advisory Opinion 31 *Assignments Involving More than One Appraiser*
- USPAP Advisory Opinion *38 Content of an Appraisal Report and Restricted Appraisal Report*

Appraisal Report Options

An appraisal **report** is defined as any communication, **either written or oral**, that transmits to the client the results of a completed appraisal assignment. Most appraisal reports are written, but at times there is also a need for oral reports such as during court testimony, conducting a walk-through at the client's home, during an "Appraisal Day" fund raiser, or during private discussions with attorneys who (at least for the time being) may not wish that appraisal assignment results be put in writing.

While SR 8-2 *Content of a Personal Property Appraisal Report* gives guidance regarding written reports, SR 8-4 *Oral Appraisal Report* contains guidance regarding oral reports. The latter states that, to the extent that it is both possible and appropriate, oral reports must address the **substantive matters** of an Appraisal Report as set forth in SR 8-2(a).[439]

Standards Rule 8-2 *Content of a Personal Property Appraisal Report* of USPAP mandates the content of written appraisal reports and requires that one of two appraisal report options be used for all **written** appraisals. The options include:

1. **Appraisal Report** option (see SR 8-2(a)), or

2. **Restricted Appraisal Report** option (see SR 8-2(b))



The choice of which option to use will vary with 1) the **intended use**[440] of the appraisal as well as 2) the needs of the client and other intended users of the appraisal. The decision of which appraisal option to use will hinge on these two issues, so be sure that at the time of your engagement that you communicate closely with the client to ensure clarity regarding intended use, needs of intended users, and, if necessary, identifying other parties as intended users.

Essential Differences

The essential differences between these two report options are:

- In the **content** of the report

- In the **level of detail** of information provided in the report

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[439] When about to perform an oral report, review the requirements of SR 8-2(a) (these are the requirements pertaining to the written Appraisal Report option) to ensure that you are covering all the substantive matters with the client (to the extent that it is both possible and necessary to do so). Substantive matters are those matters that are of major or practical importance to all concerned.

[440] The intended use of the appraisal plays a **critical** role in the determination of which of the two report options the appraiser should use.



- **Who** is permitted to **make use** of the appraisal—only the client and specifically named other intended users, or a more general class of unnamed intended users as well?



- Whether the information must be **summarized** in narrative form, or whether it can simply be **stated**[441], [442]

Disclosure of Option Used

Which option is used must be prominently disclosed in the appraisal report. According to USPAP SR 8-2 *Content of Personal Property Appraisal Report*:

> *Each written personal property appraisal report must be prepared under one of the following options and prominently state which option is used: Appraisal Report or Restricted Appraisal Report.*

An example of such a statement might be:



This appraisal report makes use of the Uniform Standards of Professional Appraisal Practice's Appraisal Report option.

Normally, this prominent statement as to which of the two report options is being used would appear along with the intended use of the report since the decision as to which report option to use is closely aligned with the report's intended use.



There is no requirement that the labels "Appraisal Report" or "Restricted Appraisal Report" be the **only** labels used for a report. An appraiser may use any other label in addition to, but not in place of, these two primary labels. The use of additional terms such as "evaluation," "valuation," "fully-narrated," etc. does not exempt an appraiser from complying with the above-cited appraisal report labeling requirements.[443]

Supplemental reading:

- USPAP Advisory Opinion 38 *Content of an Appraisal Report and Restricted Appraisal Report*

Deciding Which Report Option to Use



The decision as to which of the two written report options to use will be based on the results of communications between the appraiser and the client. The appraiser and the client must arrive at a decision as to which report option is the most appropriate for the

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[441] For a comparison chart detailing the differences in required content between the Appraisal Report option and the Restricted Appraisal Report option including which information must be "summarized" and which need merely be "stated" see USPAP Advisory Opinion 38 *Content of an Appraisal Report and Restricted Appraisal Report*

[442] For a discussion regarding this issue see the Chapter 11 section entitled *Primary Difference Between the Two Report Options: State vs. Summarize*

[443] Appraisers can even use older USPAP-approved labels such as "summary," or "self-contained" so long as they also use one of the currently-mandated labels: "Appraisal Report," or "Restricted Appraisal Report."

assignment at hand. That decision will be predicated upon the report option being consistent with the intended use of the report as well as with satisfying the informational needs of the client as well as other named intended users, if any.[444] Regardless of whether using an Appraisal Report or a Restricted Appraisal Report, the content of all reports **must be appropriate for the intended use of the appraisal**.



For some intended uses, certain elements of information will need to be "summarized" by the inclusion in the report of the appraiser's supporting rationale. For example, because of the need for a detailed content, the **Appraisal Report** option would be used for appraisals done for federal tax liability purposes such as donations or estate, certain complex insurance claims, consumer fraud, litigation, transit-related damage claims appraisals, and any other intended uses that require extensive detail and documentation of the appraisal process as well as well-documented supportive rationale for the appraiser's rationale, opinions or conclusions. For such assignments, make use of the Appraisal Report option which will summarize the needed information rather than merely "stating" it.



On the other hand, a **Restricted Appraisal Report** option is used for clients who have need for only a minimal presentation of information. In such cases, the report does not require the inclusion of supporting rationale, so the appraiser need only "state" information. An example would be a client who already has extensive knowledge about the property he would like to sell. He only needs the appraiser to conduct market research and develop an opinion of a fair selling price. The client does not wish to spend the time or pay the additional expense of having the appraiser gather and report information the client already possesses such as about the nature of the property itself.

The "Appraisal Report" Option

The Appraisal Report option prescribes the minimum level of reporting necessary:

- For an assignment in which the client and/or intended users may need to understand the appraiser's rationale, and/or

- For an assignment in which the client may not have specialized knowledge about the subject property itself, so needs detailed property information.

Since the Appraisal Report option establishes a **minimum** level of information, the appraiser must decide if additional detail or explanation is required, given the intended use and the informational needs of the client as well as of other intended users (if any) of the report. While it is required to **summarize** some of the information and merely to **state** other information, the aggregate amount of information provided must be sufficient to allow the client and intended users to adequately understand the rationale for the appraiser's resultant opinion or conclusion.

Even though fully describing all the details of the appraisal process may not necessarily be required for all assignments when making use of the Appraisal Report option, the appraiser still

[444] Although it was prohibited to do so prior to the 2020-2021 edition of USPAP, it is now permissible to make use of the Restricted Appraisal Report option when there are intended users other than the client.

has the option of adding details if he or she feels that such additional information would prove helpful to the understanding of the report.[445]

Supplemental reading:

- USPAP Standards Rule 8-2(a) (content of an Appraisal Report)

The "Restricted Appraisal Report" Option



(Note that this entire section has been updated.)

A **Restricted Appraisal Report** may be provided:

- When the client is the **only** intended user, or
- When additional intended users exist **and** are identified by **name** (and not merely by **type**).

Required Disclosure Statements for Restricted Appraisal Reports

Due to its reduced utility, USPAP SR 8-2(b)(iii & iv) require that Restricted Appraisal Reports contain two disclosure statements:

- The first is a restriction that limits the use of the report to the client and the named intended user(s).
- The second is to warn readers that the report may not contain supporting rationale for all of the opinions and conclusions set forth in the report.[446]

USPAP Advisory Opinion 38 *Content of an Appraisal Report and Restricted Appraisal Report* notes that the Restricted Appraisal Report is an appropriate option to use only if:

- *The client understands the limited utility of this option;*
- *The intended use of the appraisal is appropriate for a report which may not contain supporting rationale for the all of the opinions and conclusions set forth in the report; and*
- *The client (and, if applicable, named other intended users) do not need the level of information required in an Appraisal Report.*

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[445] Specific elements of information to be included in either an Appraisal Report or in a Restricted Appraisal Report are discussed in Chapter 11.

[446] This second statement (a simplification of earlier Restricted Appraisal Report warning language) no longer includes a reference to the appraiser's workfile and the additional information contained therein.

Examples of when the use of a Restricted Appraisal Report might be appropriate include:

- A sales advisory assignment in which the client is a collector who is already knowledgeable regarding the subject property but only needs an appraisal in order to dispose of (or acquire) a particular property.

- There are named heirs who are dividing an estate and who do not care to know details regarding how the appraiser arrived at his or her value conclusions.

- The client may wish to know for personal reasons what the value would be of an item of property under a presumed hypothetical condition. For instance, "What would be the value of the painting if it was to be professionally restored?"

- An attorney wants only an appraisal for arbitration purposes in which case a Restricted Appraisal Report will suffice. Should the case go to trial, the appraiser will be asked to prepare an Appraisal Report, complete will all relevant supporting rationale.

Must Identify Intended User by Name

Appraisers are not allowed to identify intended users by "type" when using the Restricted Appraisal Report option; instead, intended users must be identified only by "name." Examples of "types" of intended users would include lawyers, accountants, insurance adjusters, trust executors, etc. Assignments for which intended users can only be identified in a generic fashion by these "type" must make use of the Appraisal Report option instead of the Restricted Appraisal Report option.

The underlying reason why a Restricted Appraisal Report is only to be used by the client and other **named** intended user lies in the abbreviated nature of a Restricted Appraisal Report and on the need for the appraiser to **identify the needs** of all would-be intended users. The appraiser is able to identify the needs of other intended users if they are named, but is not able to ascertain their needs if the intended users can only be identified by generic type such as "lawyers," "heirs," "beneficiaries," "adjusters," etc.[447], [448]

When considering whether or not to identify a party as an intended user, ask yourself if the would-be intended user has needs that exceed those of the client. If not, then there is no need to identify the party as an intended user.[449] However, if the needs of the third party do exceed those of the client, then identify the party as an intended user, determine his or her needs and a scope of work that will ensure those needs are satisfied. An example might be distant beneficiaries of an estate who might not be as familiar with the property as is the local executor/client. As a result, the information necessary for those other intended users to understand the report may differ from

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[447] There is nothing in USPAP that would preclude the appraiser from including a more detailed analysis than is necessary in a Restricted Appraisal Report. The appraiser is always free to add more information than the minimum requirements of USPAP regardless of whether or not there are any other intended users.
[448] Note that a party receiving a copy of the report merely by virtue of a disclosure requirement is not considered to be an intended user unless specifically identified as such by the appraiser. Examples of such recipients might include the IRS for donation appraisals, the insurance company for insurance appraisals, and opposing counsel for litigation appraisals. (See SR 8-2(a & b)(ii). See also 2020-2021 USPAP FAQ #135.)
[449] Remember, the client is free to share the report with whomever the client chooses, regardless of whether or not that party has been identified by the appraiser as an intended user.

that needed by the client. This additional need would affect the amount of information and level of detail necessary for the appraiser to include in the report.[450]

Supplemental reading:

- USPAP Standards Rule 8-2(b) (content of a Restricted Appraisal Report)
- USPAP Advisory Opinion *38 Content of an Appraisal Report and Restricted Appraisal Report*

Ethical Obligations of Reporting

Recall that USPAP defines a *Report* as:



REPORT: any communication, written or oral, of the results of an appraisal or appraisal review that is transmitted to the client or a party authorized by the client upon completion of an assignment.

While STANDARD 8 *Personal Property Appraisal, Reporting* addresses the overall **performance requirements** for report **content**, the **ethical obligations** of reporting are addressed in several locations throughout USPAP including the following locations:

- The PREAMBLE requires the appraiser to communicate in a manner that is *"meaningful and not misleading."*

- The Conduct section of the ETHICS RULE prohibits the appraiser from communicating assignment results in a *"misleading or fraudulent manner."*

- The SCOPE OF WORK RULE requires that reports *"contain sufficient information to allow intended users to understand the scope of work performed."*



Standards Rule 8-1 *General Reporting Requirements* requires that each written or oral personal property appraisal report must:

  - *clearly and accurately set forth the appraisal in a manner that will not be misleading;*



  - *contain sufficient information to enable intended user(s) of the appraisal to understand the report properly;*

  - *clearly and accurately disclose all assumptions, extraordinary assumptions, hypothetical conditions, and limiting conditions used in the assignment.*

- Another ethical obligation for the appraiser is that he or she must sign the USPAP certification. Standards Rule 8-3 *Certification* notes that an appraiser-signed USPAP certification is an integral part of the appraisal report. This certification recognizes the appraiser's awareness of the ethical obligations of appraisers and declares his or her compliance with the requirements of USPAP.

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[450] See the Chapter 1 section entitled *Intended Users* for an additional discussion regarding intended users.

When Must an Appraiser Comply with USPAP?

Various tasks, roles, public perceptions and scenarios can cause appraisers to be uncertain about when they **must** or **should** comply with some or all of USPAP's requirements and when they need not. Here are some examples of why this uncertainty exists:

- The public views appraisers as all-knowledgeable regarding the type of property in which they specialize. As a result, appraisers will be called upon to render opinions which are value-related, but they may also be asked to render opinions which are **not** value-related such as opinions as to the quality, age, use or country-of-origin of an item.

- Many individuals promote themselves as educated and trained "appraisers," but at the same time they **also** perform in professional roles other than as appraisers such as estate liquidators, auctioneers, brokers, antiques dealers, restoration specialists, downsizing experts, etc. In such non-appraiser roles, the individual might be tasked with performing a valuation service. An example would be an estate liquidator (who is also a known appraiser) who must "price" items for an upcoming tag sale. Another example would be a jewelry store owner (who is also an appraiser) making an offer to purchase an item brought into his store by a would-be seller.

- At times, an appraiser may not feel as though he or she is acting in an official, "on-the-job" capacity such as when a known jewelry appraiser is asked about the value of a diamond ring during the course of a backyard barbeque.

- On occasion, even though acting as an appraiser, rather than expressing an **opinion of value** about a property, the appraiser merely provides **statements of fact**. (USPAP, by the way, governs only opinions and not statements of fact.)

Must vs. Should Comply

The PREAMBLE to USPAP as well as USPAP's ETHICS RULE state that if required by **law**, **regulation** or the **requirements of the client**, then the appraiser **must** comply with USPAP. The PREAMBLE also notes that even when not obligated to comply with USPAP by law, regulations or the requirements of the client, individuals may still **choose** to comply.

> *Compliance with USPAP is required when either the service or the appraiser is obligated by law, regulation or by agreement with the client or intended users. When not obligated, individuals, may still choose to comply.*

Though not mentioned specifically in the PREAMBLE, appraisers belonging to appraisal societies which mandate that their members comply with USPAP must also comply as must appraisers who state in their appraisal reports that the reports are USPAP compliant.

Note that federal and state laws require compliance with USPAP for **real property** appraisers, but **not** for **personal property** appraisers. However, appraisal societies may require that their members comply with USPAP, in which case members **must** comply. All major personal

property appraisal organizations require compliance with USPAP, so their members **must** comply even though there are no federal or state laws requiring them to do so.[451]

In addition to the above requirements mandating compliance, the ETHICS RULE of USPAP states that, even though not obligated to comply, if the appraiser represents that he or she performs services of an appraiser, then they are ethically bound and **should** comply with USPAP. This ethical obligation to comply with USPAP is created by choice, i.e., the appraiser chooses to represent him- or herself as an appraiser.

> *Compliance with USPAP is required when either the service or the appraiser is obligated by law or regulation, or by agreement with the client or intended users, to comply. In addition to these requirements, an individual should comply any time that individual represents that he or she is performing the service of an appraiser. An appraiser must not misrepresent his or her role when providing valuation services that are outside of appraisal practice.*

In order to understand the appraiser's USPAP obligations, one must first understand what the public's **expectations** are of an appraiser.[452] In other words, what does the public perceive to be the role of an appraiser? In order to best understand these issues and to determine if, when, and to what degree an individual must comply with USPAP, one needs a clear understanding of the terms **appraiser**, **valuation services**, and **appraisal practice** as used by USPAP.

Appraiser

USPAP defines an *Appraiser* as:

> *APPRAISER: one who is **expected** to perform valuation services competently and in a manner that is independent, impartial, and objective.* [emphasis added]



Note that an appraiser is one for whom there is a public **expectation** that valuation services will be performed competently and without bias, and in an independent, impartial and objective manner. Such expectation could occur when individuals, either by choice or by requirement placed upon them or upon the service they provide by law, regulation, agreement with the client or other intended users, or appraisal societal mandates represent that they comply.

That **expectation** is derived by the public as a result of the manner in which appraisers hold themselves out to the public. For instance, appraisers promote themselves with appraiser-related business cards and brochures, they operate an appraisal business, they are members of an appraisal society, they have a website promoting their personal property appraisal knowledge, experience and services, etc. All such activities give the public a **justifiable expectation** that the appraisal will be performed in a competent and impartial manner in accordance with generally accepted appraisal practices.

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[451] TAF itself requires that members of its Sponsoring Organizations comply with USPAP (as well as with the AQB's *Appraiser Qualification Criteria*). There are three personal property appraiser organizations that are Sponsoring Organizations: the American Society of Appraisers, the International Society of Appraisers, and the Appraisers Association of America. All members of these societies **must** comply with USPAP.
[452] The public's interest is at the heart of USPAP. After all, the very reason for USPAP is to *"promote and maintain a high level of public trust in appraisal practice…* (USPAP PREAMBLE)

Valuation Service

USPAP uses the term **valuation service** to recognize all the many situations in which value-related services (including opinions of value) are offered by **both** appraisers **as well as by non-appraisers** (i.e., by those not recognized as being appraisers, not having training as an appraiser, and, consequently, not expected to comply with generally accepted appraisal practices such as with impartiality, competence and independence).

USPAP defines *Valuation Service* as:



VALUATION SERVICE: a service pertaining to an aspect of property value, regardless of the type of service and whether it is performed by appraisers or by others.

"Valuation service" is a very broad term that includes services performed by appraisers **as well as by** those in such **non-appraiser** roles as:

- Car dealers who rate the quality of a trade-in and, subsequently, its trade-in value, or who promote a vehicle on the lot as being worth its sticker price,
- Insurance and transit claims adjusters who make settlement offers based on their perceived value of property destroyed in a fire or damaged in a move,
- Repairmen who state that the repair cost of a damaged item will be less than its replacement cost,
- Auctioneers tell would-be consignors that their item is worth, or who provide pre-sale auction estimates of items consigned to them for auction sale,
- Jewelry store or pawn shop owners who make offers to buy items brought into their store by a would-be seller,
- Estate executors who, in some jurisdictions, have the authority to set or attest to the fair market value (on which taxes will be levied) for property belonging to the decedent's estate,
- Consultants who offer their services to attorneys to assist in litigation efforts involving the value of property and/or appraisal theory, principle and methodology,
- Estate liquidators and downsizing experts who are tasked with assigning prices for household goods being offered for sale, or
- Dealers and pickers who make offers of "fair prices" when purchasing antiques, collectibles, fine art and other appreciable property directly from the owner.

All the above are examples of "valuation service" performed by individuals who are **not** appraisers; consequently, the public has no expectations that the valuation services they perform (pricing for sale, cost of repair, offers to buy, etc.) will conform to the requirements of generally accepted standards for "appraisers."

Appraisal Practice

Appraisal practice is a **subset** of valuation services and is a service that can be performed **only by appraisers** because appraisal practice (unlike "valuation service" that is performed by **non**-appraisers) requires **competency** in appraising. Non-appraisers are **not trained** or **qualified** to perform "appraisal practice."

So, only **appraisers** can perform *Appraisal Practice* which USPAP defines as:

> *APPRAISAL PRACTICE: valuation services performed by an individual acting as an appraiser, including but not limited to appraisal or appraisal review.*
>
> 
>
> *Comment: Appraisal practice is provided only by appraisers, while valuation services are provided by a variety of professionals and others. The terms appraisal and appraisal review are intentionally generic and are not mutually exclusive. For example, an opinion of value may be required as part of an appraisal review assignment.*

While **valuation services** cover a broad range of services performed by appraisers and non-appraisers alike, **appraisal practice** covers **only those services provided by an appraiser**, including **but not limited to** performing **appraisals** and **appraisal reviews**.

Expectations

Whether or not individuals need to comply with USPAP depends largely on what the **expectations** are of the public, client and intended users. If the public is led to expect that the individual (perhaps because of the individual's own self-promotion as one who offers appraisal services) will provide valuation services that are competent, ethical and without bias, then, for all intents and purposes, the person providing those services is considered an appraiser and **should** comply with USPAP.

But when that individual is required by law, regulation, or by agreement with the client to perform in accordance with USPAP, or states in the assignment report that he or she did comply with USPAP, or is compelled to comply with USPAP by his or her parent appraisal society, then that individual **must** comply with USPAP. Failure to do so could result in a violation of societal codes of ethics and/or an increase in exposure for malpractice.



Nota bene: Under USPAP, a credential awarded by a parent appraisal society is **not** what makes someone an appraiser—it's the **expectation** of competency, independence, impartiality and objectivity that defines one as being an appraiser.

USPAP applies to all **appraisal practice** assignments (i.e., valuation services that are provided only by appraisers), but does USPAP apply to **all** valuation services (i.e., to all valuation services regardless if performed by an appraiser or by a non-appraiser)? The answer is "No."

USPAP does not apply to **all** those who offer valuation services. USPAP applies **only to appraisers** who offer valuation services, and then only while the individual is **acting in the capacity of an appraiser** (as opposed to while performing as a non-appraiser such as a known appraiser might do while performing as a dealer, auctioneer or estate liquidator).

Moreover, the **parts** of USPAP to which the appraiser must comply will depend on whether the appraiser is performing appraisal practice as an appraiser (such as when doing an appraisal or appraisal review; or when performing other types of appraisal practice such as teaching appraisal courses), or if the appraiser is performing a valuation service while performing in a role outside of appraisal practice such as when wearing the hat of a pawn shop owner who is making an offer to purchase an item which he hopes to resell at a profit.

- **When Performing a Valuation Service as an Appraiser** (i.e., When Performing Appraisal Practice)

  When the public calls upon an appraiser to perform an appraisal (or some other form of valuation service) as an appraiser with the expectation that the service will be performed competently and without bias, then there is a public expectation that the assignment will be performed in accordance with USPAP. In such assignments, the appraiser is conducting **appraisal practice** and must comply with all **relevant** parts of USPAP.

  As noted above, appraisal practice is a subset of valuation service, and includes, but is not limited to, appraisals and appraisal reviews by an appraiser. But for these two specific types of valuation services (i.e., appraisals and appraisal reviews), the appraiser must comply with the below listed **general obligations** of USPAP, the SCOPE OF WORK RULE, the RECORD KEEPING RULE, and the applicable STANDARDS (for instance STANDARDS 7 *Personal Property Appraisal, Development* and 8 *Personal Property Appraisal, Reporting* if performing an appraisal of personal property).

  But appraisal practice also includes "other valuation services" performed by an individual while acting in the capacity of an appraiser. A few examples include teaching appraisal classes, writing appraisal course books, assisting with gathering market data for transit-related damage claims purposes, and providing appraisal-related litigation support to an attorney. "Other services" also include the appraiser providing a "pricing service" by helping a homeowner assign asking prices in preparation for an estate (tag) sale the homeowners will be conducting, or assisting an auction gallery by assigning pre-sale auction estimates in preparation for their upcoming auction.

  In such "other service" scenarios as the above, the appraiser's services (while not an "appraisal" or "appraisal review") are, nevertheless, considered **appraisal practice** and, as such, are governed by some parts of USPAP but not others.

  For these "other services" being performed as an appraiser, performance STANDARDS 1 through 10, the SCOPE OF WORK RULE and the RECORD KEEPING RULE would **not** apply;[453] however, the appraiser must still comply with the **general obligations**[454] of USPAP since the appraiser **is functioning as an appraiser** while performing these "other services" within appraisal practice.

  By the way, oral appraisal reports have USPAP obligations as well. When performing oral appraisal reports at an "Appraisal Day" type of venue, comply with the RECORD KEEPING RULE regarding workfile requirements, including preparing a brief written

[453] STANDARDS 1 through 10, the SCOPE OF WORK RULE and the RECORD KEEPING RULE apply **only** when the appraiser is performing either an **appraisal** or an **appraisal review**.
[454] See the below section of this Chapter entitled *General Obligations of USPAP*.

appraisal summary and include it along with a signed USPAP certification in the workfile.[455] If audio or video tapes of the oral appraisal report are made, store them in the assignment workfile as well.

Typically, appraisers provide services pro bono for appraisal day type of charitable fund raisers. Regardless of whether or not the appraiser receives compensation for services rendered, USPAP still applies. (2020-2021 USPAP FAQ #48)[456]

- **When Performing a Valuation Service While in a Role Other Than as an Appraiser** (i.e., When **not** Performing Appraisal Practice)

  When an individual **who is also known as an appraiser** provides valuation services while performing in a role **other than** as an appraiser (such as while acting as an estate liquidator or pawn shop owner), then that individual is acting **outside** appraisal practice and is **not**, therefore, bound by USPAP.

  Having said that, the appraiser is not completely off the USPAP "hook." While functioning outside appraisal practice, the appraiser has the USPAP obligation to not represent that he or she is acting as an appraiser.

  The reason for this is that valuation services (such as acting as an auctioneer/agent for the client or acting as a jewelry store owner) may allow actions considered unethical by USPAP such as acting as an advocate for the client, slanting information for one's own interest, accepting contingent compensation, or being biased in favor of the client or the subject property. Such services, therefore, cannot be performed by an individual while performing as an appraiser, but there are no prohibitions against such otherwise unethical actions if the individual is performing as a non-appraiser.

  Such individuals who are appraisers but who are performing outside the role of an appraiser, must be careful to avoid misrepresenting themselves as appraisers. The USPAP ETHICS RULE states:

  > *An appraiser must not misrepresent his or her role when providing valuation services that are outside of appraisal practice.*

  In other words, do not tell the client you are performing to high appraisal standards when you clearly are not.

Providing Factual Information vs. Opinion of Value

As noted, many appraisers have professions outside their role as an appraiser, e.g., some appraisers are also dealers, auctioneers or estate liquidators. Still others are consultants or restorers. Oftentimes, valuation questions are encountered while performing under the umbrella of an adjunct business and outside their typical role as an "appraiser." In addition, valuation questions might even be encountered in their personal lives such as during a backyard barbeque.

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[455] You may wish to make use of a form such as that in Appendix AA *Agreement for an Oral Opinion of Value (Oral Report Summary).*

[456] See the Chapter 1 section entitled *Oral Reports* and the Chapter 5 section entitled *Oral Appraisal Reports* for related discussions.

One whose identity as an appraiser (or whose appraisal expertise or ethical reputation causes him or her to be recognized or thought of by the public as a professional "appraiser") must use special caution when facing the possibility of providing valuation services outside his or her professional appraisal practice.

For instance, let's get back to the barbeque during which the known professional jewelry appraiser is asked to render a casual opinion of value regarding a neighbor's diamond ring. The appraiser should recognize immediately that the neighbor expects him to respond as an appraiser; thus, the appraiser is functioning within the definition of appraisal practice and may have to comply with the standards of USPAP when rendering an opinion. Of course, the appraiser could decline to offer any information at all by saying something like, "I'm sorry, but I really can't provide any worthwhile opinion without first examining the ring in my office." But that probably would not go over very well.

Another option is for the appraiser to provide only **factual information** regarding diamonds in general. Yet another option is to go ahead and provide an **opinion of value** of the ring at hand. Doing the former would not require USPAP compliance with any of the USPAP STANDARDS, but doing the latter will—including the creation of a workfile soon thereafter in accordance with USPAP's RECORD KEEPING RULE. This is because whether our jewelry appraiser must comply with USPAP in providing a reply depends on whether or not there exists any of the STANDARDS 1 through 10 for the type of information the appraiser provides.

- If the appraiser simply provides factual information (e.g., "Current price guides for stones of that size list retail replacement prices ranging from $2,000 and $7,000 depending on the cut, clarity and color of the diamond."), then the appraiser has **not performed an appraisal** (i.e., has not offered an opinion of value) and, therefore, is not bound by USPAP STANDARDS since there are no STANDARDS that pertain to simply stating factual information. STANDARDS 1 through 10 only pertain to developing and reporting an opinion of value (i.e., performing an appraisal) or when conducting an appraisal review.

- But what if the appraiser instead states, "Diamonds of that size typically sell for between $2,000 and $7,000 depending on their quality of the cut, clarity and color. It appears that your diamond is of high quality, good proportions and good color, so I would think that its replacement value would be about $6,200."



In doing so, the appraiser has used his judgment to form an opinion of value based on the specific relevant characteristics of the property and how the subject property relates to comparable sold properties or to current asking prices for comparable properties. The appraiser has performed an appraisal, and there are STANDARDS (7 and 8, specifically) that apply to this process of value development and oral reporting. The appraiser must, therefore, comply with USPAP STANDARDS 7 *Personal Property Appraisal, Development* and 8 *Personal Property Appraisal, Reporting* including the preparation of a workfile once he returns to his office.

In summary, if, when acting in the capacity of an "appraiser," the appraiser provides only factual information, he or she need not comply with USPAP. But when the appraiser forms opinions of value by relating that factual market data to a specific subject property thus resulting in an

opinion of value of that property, then the appraiser has provided an appraisal, and he or she must comply with USPAP STANDARDS 7 and 8.[457]

General Obligations of USPAP

As noted earlier in this lesson, when performing **appraisals**, **appraisal reviews**, or certain "**other services**" that fall within appraisal practice (see below for examples), the appraiser must at all times comply with all of the **general obligations** of USPAP.

The general obligations consist of requirements contained in the following parts of USPAP:

- DEFINITIONS
- PREAMBLE
- ETHICS RULE
- COMPETENCY RULE
- JURISDICTIONAL EXCEPTION RULE

Additional Obligations of USPAP

But when performing specifically **appraisals**, or **appraisal reviews**, the appraiser must also comply with the following **additional** obligations of USPAP as well:

- The RECORD KEEPING RULE,
- The SCOPE OF WORK RULE, and
- Whichever relevant STANDARDS apply:
    - For real property appraisals, STANDARDS 1 and 2
    - For appraisal reviews, STANDARD 3 and 4
    - For mass appraisals, STANDARD 5 and 6
    - For personal property appraisals, STANDARDS 7 and 8
    - For business property appraisals, STANDARDS 9 and 10

Other Services

"Other services" (i.e., other than appraisals and appraisal reviews) that would also fall under appraisal practice would include, for example, teaching appraisal courses and seminars, writing

[457] See the Chapter 1 section entitled *Oral Reports*, the Chapter 5 section entitled *Oral Appraisal Reports* and the Chapter 8 section entitled *Unconsidered Opinions of Value* for additional related discussions.

appraisal texts, researching comparable sales data, or analyzing specific elements of value such as provenance, author or country of origin.

For such "other" types of appraisal practice services, the above **Additional Obligations** (RECORD KEEPING RULE, the SCOPE OF WORK RULE, and STANDARDS 1 through 10) would **not** apply, but the appraiser **would** be required to comply with the above **General Obligations** of USPAP because the general obligations apply to **all** types of appraisal practice services—not just to appraisals and appraisal reviews.

Non-Monetary Opinions Can Lead to Appraisals

It is worth noting that non-monetary opinions might eventually lead the appraiser being asked to offer an opinion of value. Should that occur, the development of the opinion of value must be done in accordance with the relevant parts of USPAP.

As an example, the appraiser might be asked to only report on the degree of originality of a vintage automobile damaged in an accident. Assume that subsequent to this initial non-monetary opinion the client asks the appraiser to provide an opinion of replacement value based on the automobile being all-original. Initially the appraiser was asked to provide a non-monetary opinion as to originality, but now the appraiser is being asked to provide a monetary opinion, i.e., an appraisal. The opinion of value must be developed and communicated in accordance with the relevant parts of USPAP, i.e., STANDARDS 7 *Personal Property Appraisal, Development* and 8 *Personal Property Appraisal, Reporting*.

Illustration Helps Explain Appraiser's USPAP Compliance Obligations

Understanding the appraiser's obligation to comply with USPAP as well as understanding the relationship between **valuation service** and **appraisal practice** is facilitated by the below illustration.[458] This illustration will help you to better understand an appraiser's USPAP compliance obligations while the appraiser is providing various types of appraisal practice and valuation service, or while performing in a role other than that of an appraiser.

In the below illustration, note that:

- **Column 1** lists USPAP compliance obligations by groups (general obligations, additional obligations, and misrepresentation as a stand-alone obligation)
- **Column 2** addresses the two forms of appraiser-provided appraisal practice service (including **appraisals** and **appraisal reviews**) which are addressed by USPAP STANDARDS 1 through 10.
- **Column 3** addresses all appraiser-provided appraisal practice services **other than** appraisals and appraisal reviews.
- **Column 4** addresses valuation service performed by one who is recognized as an appraiser but who is performing a valuation service while acting in a role **other than** as an appraiser.

[458] See also USPAP Advisory Opinion 21 *USPAP Compliance*.

COL 1	COL 2	COL 3	COL 4
Activity / Compliance Obligation	**Appraisal Practice** (As an appraiser performing either appraisals or appraisal reviews)	**Appraisal Practice** (As an appraiser performing other appraisal practice services, e.g., teaching appraisal classes)	**Valuation Services** (Performing in a role other than as an appraiser, e.g., dealer, estate liquidator)
General obligations: • DEFINITIONS • PREAMBLE • ETHICS RULE • COMPETENCY RULE • JURISDICTIONAL EXCEPTION RULE	✓	✓	
Additional obligations: • Applicable STANDARDS 1-10 • SCOPE OF WORK RULE • RECORD KEEPING RULE	✓		
Appraiser must not misrepresent his or her role. (ETHICS RULE) © David J. Maloney			✓ (Only requirement is to not misrepresent role.)

(**Checks** indicate which of the USPAP obligations listed in Column 1 apply to the corresponding services indicated in the top row.)

Here are the take-aways from the above table:

COL 2: Column 2 highlights the USPAP obligations listed in Column 1 that pertain to either **appraisal** or **appraisal review** assignments. When performing either of these two assignment types, the appraiser must comply with:

- The general obligations of USPAP,
- Whichever of the relevant performance STANDARDS 1 through 10 that are applicable,
- The SCOPE OF WORK RULE, and
- The RECORD KEEPING RULE

COL 3: Column 3 highlights the USPAP obligations listed in Column 1 that pertain to all appraisal practice assignments **other than** appraisals and appraisal reviews:

- The only USPAP compliance obligations that apply to Column 3 type services are USPAP's **general obligations**. Examples of these "other" Column 3 type of appraisal practice services for which only the general obligations apply might include cataloging property, analyzing the appropriate marketplace, researching comparable sales, analyzing specific elements of value, writing appraisal text books, or teaching appraisal or USPAP classes.
- **None** of the STANDARDS 1 through 10 apply to any appraisal practice other than to appraisals and appraisal reviews.

- As a consequence of there being no applicable STANDARDS for Column 3 type assignments, neither is there a need to determine/perform a scope of work, nor are there any record keeping or workfile requirements. Therefore, neither the SCOPE of WORK RULE nor the RECORD KEEPING RULE applies.

COL 4: Column 4 highlights the single USPAP obligation that pertains to an individual providing valuation service while performing **outside** the role of an appraiser such as one known to be an appraiser but who is performing **not as an appraiser** but rather as an estate liquidator, dealer or auctioneer. In such cases, the sole obligation is that the individual not **misrepresent** his or her role. This is an important distinction, because in the role of a non-appraiser, the individual need **not** comply with USPAP other than the ETHICS RULE's admonition to not represent that he or she is acting as an appraiser when, in fact, the individual is not! He or she is, instead, acting as an estate liquidator or as an auctioneer, etc. but **not** as an appraiser.

- Such dual-role appraisers must be careful to separate these conflicting roles in their self-promotions so that clients do not become confused regarding in which role the appraiser is performing. Separate promotional ads, business cards and websites for each of the appraiser's professions will help to eliminate this confusion.

- Why is this separation of roles important? Because while performing in a role other than as an appraiser, the individual is permitted to accept contingent fees, to act as an advocate for his or her client, to be biased in favor of the client or the subject property. Doing so would be in violation of USPAP if the individual were performing as an appraiser! In addition, when performing outside the role of an appraiser, there is no appraiser-client relationship including there being no requirement to maintain client confidentiality as would be required if performing as an appraiser who is subject to USPAP!

- For one known as an appraiser who also performs in other roles, it is best to clearly separate the valuation services he or she offers. Doing so will reduce the likelihood that the client will misunderstand in which role the individual is performing.

Supplemental reading:

- USPAP Advisory Opinion 21 *USPAP Compliance*

Personal Property Appraiser Qualification Criteria (PPAQC)

While real property appraisers are required to be tested, licensed and certified by each state in the Union, such is not the case with personal property appraisers. Indeed, anyone can claim to be a personal property appraiser regardless of his or her level of testing, education or experience. This lack of a requirement for even the most basic demonstration of ability had resulted in problem personal property appraisals. The Appraisal Foundation's (TAF) Appraiser Qualifications Board (AQB) addressed the issue in 1998 by developing the *Personal Property Appraiser Qualification Criteria (PPAQC).*

At the time, the AQB had been advised by appraisal societies and appraisal user groups of significant problems being caused by incompetent personal property appraisers. The AQB was

urged to develop qualification criteria in order to define a minimum acceptable level of competency for personal property appraisers.[459]

After receiving recommendations from a special Task Force as well as public input from two exposure drafts that were released in 1997 and 1998, the AQB adopted the *PPAQC* in 1998. Other than for members of Sponsoring Organizations of TAF, compliance with the criteria is voluntary.

In summary, the 1998 *PPAQC* required:

- A comprehensive examination,
- Qualifying education,
- Qualifying experience, and
- Continuing education.

The AQB's vision in adopting the Criteria was that major clients of personal property appraisers such as corporations and government agencies would primarily make use of appraisers who meet the Criteria's testing, education and experience requirements.

It should be noted that meeting the Criteria is **voluntary** for most appraisers; however, as mentioned, for appraisers who are members of Sponsoring Organizations of The Appraisal Foundation compliance with the *PPAQC* is mandatory. TAF requires that members of its own Sponsoring Organizations comply with the criteria (as well as with the ASB's *USPAP*). There are three personal property appraiser organizations that are Sponsoring Organizations of The Appraisal Foundation: the American Society of Appraisers (ASA), the International Society of Appraisers (ISA) and the Appraisers Association of America (AAA). Appraisers who are members of other appraisal societies (or who are not members of any appraisal society at all) are **not required** by TAF to meet the Criteria, though they are encouraged to do so.

The 1998 Criteria stated that the Criteria are not to be used as guidelines for any governmental regulatory program, nor do parental personal property appraisal societies (other than the ASA, ISA and AAA) have the right to mandate that their members meet the Criteria since, by definition, the Criteria are voluntary. Having said that, at its inception it was thought that meeting the Criteria would enhance the appraiser's professionalism and marketability and doing so should be encouraged.

Aside from members of the ASA, ISA and AAA, it is up to the individual appraiser to choose whether or not he or she wishes to meet the *PPAQC*. Appraisers can be certified as having done so, however, only by their parental society or by another "impartial entity." Parental societies are, therefore, obligated to provide their members with the necessary support so that members can become compliant if required or should they wish to do so. Support is necessary from parental societies in the form of record keeping, in certification of compliance, and in maintaining a registry of qualifying members.

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[459] As a representative on The Appraisal Foundation's Advisory Council (TAFAC), the author was a part of that process from its inception until final adoption.

New Criteria Adopted

An updated *PPAQC* became effective as of January 1, 2018. The new Criteria is available on The Appraisal Foundation's website, appraisalfoundation.org. Check the Criteria for details, but, in general, the new Criteria will require:

- 30 semester hours of college-level education, or an Associate degree or higher

- 120 hours of classroom hours in appraisal education; to include:
  - The 15-hour National USPAP Course
  - Minimum of 45 hours in a tested course in valuation theory and principles
  - Minimum of 60 hours in appraisal ethics, methodology, report writing and other specified appraisal-related topics
  - 70 hours of continuing education during each 5-year period to include 20 hours of coursework related to valuation theory

- Experience requirements to include:
  - 700 hours of personal property appraisal experience
  - 1,800 hours of market-related experience or its equivalent

It should be noted that:

- The new Criteria, quite naturally, require that all complying appraisers perform assignments in conformity with the requirements of the *Uniform Standards of Professional Appraisal Practice*.

- For existing credentialed appraisers, other than the revised continuing education requirements, these new Criteria will not impose any additional requirements. Having said that, while these Criteria are not retroactive to existing credentialed appraisers, personal property appraisers seeking new credentials or credentials in another appraisal discipline or in another area of specialization expertise will be required to comply with the new Criteria.

- Credentialing of qualified appraisers of personal property may be implemented by any impartial qualified credentialing entity including qualified educational institutions and professional personal property appraiser organizations.

Chapter 8: Ethical Standards of Professional Conduct

Personal property appraisers face ethical issues and must make ethical decisions on a daily basis. Whether working at the direction of the client or the client's agent (or, perhaps, for more than one client on a particular assignment), the appraiser must ensure that appraisal reports are done in a competent, unbiased and impartial nature. In addition to the client, the appraiser may also have ethical obligations to other intended users of the appraisal, to the appraisal profession and fellow appraisers, and to the litigants and trier of fact during court proceedings.

When functioning in the dual role of dealer/appraiser, auctioneer/appraiser, estate liquidator/appraiser, etc., the professional appraiser faces additional challenges regarding conflicts of interest. In such situations, the individual must ensure that while acting in the capacity of an appraiser that he or she is not only perceived as but is in fact acting in an objective, unbiased and impartial manner.

Ethics refers to standards of conduct—standards that indicate how one should behave based on moral duties and virtues which themselves are derived from principles of right and wrong. Making ethical choices can be complex. In many situations, there are a multitude of competing stakeholder interests. Most decisions have to be made in the context of economic, professional and social pressures which at times may clash with our personal ethical values.

There are two aspects to ethics: the first involves the **ability to discern** right from wrong, good from evil, and propriety from impropriety; the second involves the **commitment to do** what is right, good and proper. The ideal behavior is based on specific values and principles which define what is right, good and proper. These principles will not always dictate a single ethically acceptable course of action, but they will provide a structure for evaluating and resolving problems that the appraiser might encounter.

Core ethical values form the foundation of a democratic society. The Josephson Institute of Ethics has developed the following “Six Pillars of Character” on which proper ethical conduct is based:

- **Trustworthiness**: honesty, integrity, promise-keeping, loyalty
- **Respect**: autonomy, privacy, dignity, courtesy, tolerance, acceptance
- **Responsibility**: accountability, pursuit of excellence
- **Caring**: compassion, consideration, giving, sharing, kindness, loving
- **Fairness**: procedural fairness, impartiality, consistency, equity, equality, due process
- **Citizenship**: law abiding, community service, protection of environment

In addition to good professional judgment, individual appraisers must exercise good personal judgment which is based, among other things, on one’s personal morals. The terms “morals” and “mores” describe beliefs, customs and traditions that are reflected in personal convictions about right and wrong. In modern times, morals tend to be associated with an ever narrower and more personal concept of values, especially concerning matters of religion, sex, drinking, gambling, and the like. For our purposes, however, the terms “ethics” and “morality” are essentially interchangeable as they pretty much have been historically.

Most people have moral convictions about what is right and wrong based on religious beliefs, cultural roots, family background, personal experiences, laws, organizational values, professional norms and political habits. These, however, are not the best values by which to make professional ethical decisions—not because they are unimportant, but because they are not universally accepted.

For the professional, generally accepted standards as well as societal codes of ethics (an example of which we discuss below) based on widely-recognized professional rather than personal standards better assist in directing the member in ethical behavior that is universally-accepted within his or her profession as well as by the public.

While members of appraisal associations benefit through the ethical mandates of their respective societies, not all appraisers are members of or active in a professional appraisal society.[460] But whether or not they are members of an appraisal society, all appraisers can benefit by complying with the ethical guidance and requirements of the generally accepted standards of USPAP.

Code of Ethics

A code of ethics is an explicit statement of ethical standards established and enforced by a professional body of practitioners. Having a societal code of ethics is one of the hallmarks of a profession since it establishes the group to which it applies as one that recognizes its obligation to set, maintain, enforce, and conform to standards of ethical behavior.

A code of ethics helps to define a profession. It is a promise to society that the profession will maintain specific ethical standards, and members of a profession are responsible for maintaining and promoting ethical practice.

A code of ethics adopted by an appraisal society is binding on appraisers who are members of that society. The standards set forth in an appraiser's code of ethics serve as a general guideline to members regarding their conduct with respect to clients, colleagues, third-parties, giving testimony, conflicts of interest, fee structures, advertising, etc.

The following is an example of a Code of Ethics for personal property appraisers:

The Appraiser:

- *SHALL always conduct him- or herself in a responsible and professional manner and use fair and equitable business practices when rendering appraisal services;*
- *SHALL encourage and promote the highest level of ethical and professional conduct within the appraisal profession;*
- *SHALL strive to maintain proficiency by updating his or her appraisal knowledge and skills as required to professionally perform as an appraiser of personal property;*

[460] It is estimated that approximately 80% of personal property appraisers do not belong to any personal property appraisal organization at all and are, therefore, being held to no societal standard of professional accountability standards whatsoever.

- *SHALL not perform unethical acts which would discredit the profession, the Association or any of its members;*

- *SHALL recognize and discharge his or her responsibility to uphold all laws and regulations including those governing the policies and activities of the appraisal profession and the appraisal assignment at hand;*

- *SHALL not engage in criminal conduct;*

- *SHALL offer opinions which are credible, objective, impartial and without bias;*

- *SHALL decline those assignments in which the appraiser has a bias towards the client or towards the property being appraised;*

- *SHALL undertake only those assignments for which he or she is competent by virtue of his or her knowledge, training and experience;*

- *SHALL engage or advise the engagement of such specialists as are required to enable him or her to complete assignments competently;*

- *SHALL have no undisclosed past, present or contemplated future financial interest in the property that is the subject of the appraisal report, and no undisclosed personal interest with respect to the parties involved;*

- *SHALL protect to the fullest extent possible, consistent with the wellbeing of the public, any information given in confidence by a client;*



- *SHALL not agree to perform an assignment that includes the reporting of predetermined opinions or conclusions;*

- *SHALL not advocate the cause or interest of any party or issue;*

- *SHALL not communicate assignment results with the intent to mislead of to defraud, or permit others to do so;*

- *SHALL not accept a fee that is contingent on his or her opinion of value;*

- *SHALL not communicate assignment results in a misleading or fraudulent manner;*

- *SHALL not misrepresent his or her role when providing valuation services that are outside of appraisal practice;*

- *SHALL comply with and prepare appraisals and appraisal reviews in conformance with the Uniform Standards of Professional Appraisal Practice* (USPAP)*;*

- *SHALL comply with the provisions of this CODE OF ETHICS.*

USPAP and Ethics

The Appraisal Foundation's *Uniform Standards of Professional Appraisal Practice* (USPAP) provides governing guidelines which are universally accepted by most appraisers regardless of their discipline (i.e., personal property, real property, or business valuations) or of their societal affiliation. USPAP establishes requirements pertaining to 1) **developing** opinions, conclusions and analyses and 2) **reporting** the results of appraisal and appraisal review assignments. But USPAP also establishes rules for ethical behavior with which the appraiser is bound to conform throughout the appraisal process.

The public **expects** appraisers to act ethically, competently and in a manner that is independent, impartial and objective. This expectation obligates the appraiser to comply with USPAP whenever performing appraisal practice services such as appraisals and appraisal reviews. It is only by complying with USPAP whenever performing as an "appraiser" that the public's trust in the appraisal profession can be preserved.[461]

USPAP's ETHICS RULE sets forth the overriding ethical requirements for integrity, objectivity, impartiality, independent judgment, and ethical conduct.

The Conduct section of the ETHICS RULE states that an appraiser:

- *must not perform an assignment with bias;*
- *must not advocate the cause or interest of any party or issue;*
- *must not agree to perform an assignment that includes the reporting of predetermined opinions and conclusions;*
- *must not misrepresent his or her role when providing valuation services that are outside of appraisal practice;*
- *must not communicate assignment results with the intent to mislead or to defraud;*
- *must not use or communicate a report that is known by the appraiser to be misleading or fraudulent report;*
- *must not knowingly permit an employee or other person to communicate a misleading or fraudulent report;*
- *must not use or rely on unsupported conclusions*[462] *relating to characteristics such as race, color, religion, national origin, gender, marital status, familial status, age, receipt of public assistance income, handicap, or an unsupported conclusion that homogeneity of such characteristics is necessary to maximize value.*[463]
- *must not engage in criminal conduct;*
- *must not willfully or knowledgeable violate the requirements of the RECORD KEEPING RULE; and*
- *must not perform an assignment in a grossly negligent manner*

[461] See the below section of this Chapter entitled *Fee Structures* for a detailed discussion of this issue.
[462] …or on supported conclusions if precluded by applicable law.
[463] This section is directed primarily at the real property appraiser.

The Management section of USPAP's ETHICS RULE:

- Prohibits accepting any undisclosed fees, commissions or things of value in connection with the **procurement** of an appraisal assignment.[464]

- Prohibits accepting an assignment or fees that are contingent such as those contingent on reporting predetermined results, a direction in assignment results that favors the cause of the client, the amount of a value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the appraiser's opinions and specific to the assignment's purpose.

- Prohibits advertising for or soliciting assignments in a manner that is false, misleading, or exaggerated.

- Requires the appraisers to affix their signature to an appraisal or appraisal review report in recognition and acceptance of their USPAP responsibilities.

The Confidentiality section of USPAP's ETHICS RULE requires that appraisers:

- Protect the confidential nature of the appraiser-client relationship.

- Not disclose 1) confidential information, or 2) assignment results to anyone other than the client, persons authorized by the client, state enforcement agencies and those third-parties authorized by due process of law, and a duly authorized professional peer review committee.

- Be aware of confidentiality and privacy laws and regulations applicable to an assignment.

In the course of their business practice, professional appraisers are faced with making moral choices relating to their professional relationship with clients and other intended users, third-parties, the public, and to their fellow appraisers as well as the appraisal profession at large. At the heart of the appraiser's responsibility is the development of unbiased, impartial and objective opinions, conclusions and analyses that are based on informed judgment and guided by the above-mentioned ethical standards. Combined, such a framework based on personal morals, societal standards, and USPAP serves to provide comprehensive ethical guidance to the contemporary professional appraiser.[465]

Is an Appraiser a "Professional"?

Is a personal property appraiser considered a "professional"? Many recognize the hallmarks of a professional as including:[466]

- Advanced training and skills,

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[464] This section is directed primarily at the real property appraiser.
[465] See the Chapter 7 section entitled *Ethical Obligations of Reporting* for a discussion of the specific USPAP ethical obligations regarding writing assignment reports that are meaningful, not misleading or fraudulent, and that contain sufficient information to be understandable.
[466] Here we discuss a "profession" as opposed to a "trade" or "occupation."

- Having a designation which is regulated by standards of behavior, ethics and practice, and

- Having a responsibility to society to act in an ethical and competent manner.

In light of the above, as a whole, personal property appraisers can be considered as "professionals."

In **Soderberg v. McKinney**, 44 Cal. App.4th the rules of professional liability were extended by the California Court of Appeals to real property appraisers as they had been earlier for such professional classes as doctors, CPAs, accountants and lawyers. The case addressed "**suppliers of opinion information to the public**" and included real property appraisers as well as other non-licensed professionals. While the case involved a real property appraiser, the case did not exclude personal property appraisers, but rather included all "information-supplying professionals"—a classification that could reasonably include personal property appraisers as well. The resultant decision means that in this instance personal property appraising is considered a **profession**, and as a "professional" the personal property appraiser can be held liable for negligence.

Standard of Care

As noted, being considered as a professional carries with it a certain liability. Exposure to such liability, however, can be minimized by conscientious adherence to recognized standards of practice and codes of conduct, i.e., by applying the **standard of care** of a professional.

An obligation of a professional is to perform his or her services according to a level of care commensurate with the professional's position in society as a trained specialist. While all citizens have an obligation to exercise **reasonable** care to avoid injury to others, a professional, by virtue of having had special training and skill, is held to a **higher** standard of care while in the performance of his or her profession. The professional appraiser is not held to what a "reasonable person" would do in a similar circumstance, but rather is held to a standard of care commensurate with what another "**reasonable professional appraiser**" having comparable experience and training would do.

Given the wide-acceptability of USPAP within today's appraisal profession and among appraisal user groups, the standard of care with which an appraiser would reasonably be expected to conform when performing appraisal practice is reflected in the generally accepted standards of USPAP. In my opinion, appraisers who choose not to comply with the standards of USPAP do so at their peril.

Is an Appraiser a "Fiduciary"?

If deemed to be a fiduciary, appraisers could be held liable for breaching their fiduciary duties. But do appraisers normally perform in the role of a fiduciary? No. Though professionals, appraisers typically act in an arm's-length manner in the capacity of independent contractors but not as fiduciaries.

A **fiduciary** is one who has a special relation of trust, confidence or responsibility in his or her obligations to others, as does a bank trust officer, a guardian for his minor ward, the Executor of an estate, a company director, a lawyer for his client, or an agent of a principal (e.g., an estate

liquidator or an auctioneer). A fiduciary is **expected to act as an advocate** for his or her client who is normally in no position to supervise or control the actions taken by the fiduciary on his behalf. The client must take those actions on trust, and the fiduciary principle is designed to prevent that trust from being misplaced. Fiduciaries who violate that trust can be held liable for doing so.

> *The term "fiduciary" is derived from Roman law, and means a person holding the character of a trustee, or a character analogous to that of a trustee, in respect to the trust and confidence involved in it and the scrupulous good faith and candor it requires. A person having a duty, created by his undertaking, to act primarily for another's benefit in matters connected with such undertaking. (Black's Law Dictionary)*

Ordinarily, fiduciary duties do not attach to the appraiser-client relationship. This is true for all appraisal practice services because the independence required to render an appraisal practice service is fundamentally inconsistent with the status of a fiduciary which, by definition, **requires** advocacy. According to USPAP and to all appraisal society Codes of Ethics, the appraiser is required to act only in an impartial and unbiased manner and NOT as an advocate. The appraiser is prohibited from acting in the capacity of an advocate, and, therefore, is prohibited from functioning as a fiduciary.

Nonetheless, there could be instances, albeit rare, in which a court might rule that, even though unintended, a fiduciary relationship existed between the client and the appraiser. Such atypical dependence by the client might be brought about by such factors as the appraiser's superior expertise, the client's lack of sophistication about the type of advice being given, the length of relationship between the appraiser and client, personal friendships between the two, steps taken by the appraiser to cultivate the client's trust, special vulnerability of the client, an expectation by the appraiser that the client would not seek advice from another appraiser, etc.

When an appraiser performing an appraisal practice service has a "special relationship" with the client that goes beyond merely providing an independent appraisal practice service but also provides advice upon which the appraiser knew the client would rely in making important decisions, then a fiduciary relationship might be deemed to exist. But to establish the existence of such a fiduciary relationship, the client would have to present "clear and convincing" evidence that such a close, dependent relationship did, indeed, exist. This would require more than mere proof of a client's "subjective trust" in the appraiser, especially if they heretofore had always dealt at arm's-length.

In **Blue Bell**,[467] a Texas court, when asked to decide and set legal precedence in a case involving an accountant being sued by his client for a breach of fiduciary duty, stated: *"The usual fiduciary relationships are those such as between attorney and client, partners, joint venturers, and close family members such as parent and child."* The court concluded that *"Mere subjective trust, however, is not enough to transform an arm's-length dealing into a fiduciary relationship."* The case was dismissed.

By extension, given that both accountants as well as appraisers are considered professionals and "suppliers of opinion information to the public" (**Soderberg v. McKinney**), if a fiduciary relationship does not normally exist between an accountant and his client (**Blue Bell**), then neither does a fiduciary relationship normally exist between an appraiser and his or her client.

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[467] Blue Bell, Inc. v. Peat, Marwick, Mitchell & Co., 715 So. 2d 408 (Tex. Ct. App. 1986).

Appraisers would be wise to maintain an independent, arm's-length relationship with clients to avoid the formation of what might appear to the client as being a "special relationship" with the appraiser. Such a relationship could possibly result in the appraiser being mistakenly identified as a fiduciary and as having potential liabilities attendant to such a designation.

Ethical Obligations to Clients

By definition, an "appraiser" is one who is **expected** to provide valuation services ethically, competently and in a manner that is independent, impartial and objective. An expectation by the client that you will act as an "appraiser" carries with it an obligation for you to comply with USPAP. Doing so will help preserve public trust in the appraisal profession.

Since appraisers may also offer valuation services outside appraisal practice, this expectation requires the appraiser to identify to the client the capacity in which the appraiser is performing (as an appraiser? dealer? auctioneer? liquidator?) If providing services outside appraisal practice such as when acting as an estate liquidator, the appraiser must not misrepresent him- or herself as acting as an appraiser. Therefore, the appraiser has a responsibility to recognize the capacity in which he or she is performing. This includes the responsibility to inquire about and recognize the client's expectations.

An appraiser is obligated:

- To identify the appraisal problem through communication with the client,
- To properly identify and eventually perform the scope of work required to develop credible assignment results, and
- To ensure (prior to agreeing to perform the assignment) that he or she has the necessary knowledge and experience to complete the assignment in a competent and credible manner.

An appraiser must respect the right of the client to access, in a timely manner, all documents and information held by the appraiser which concerns that client's appraisal assignment. The appraiser must also display reasonable availability to the client during all stages of the appraisal process.

The appraiser must exercise due diligence and reasonable professional care during all phases of the appraisal assignment, must not accept assignments for which he or she is not qualified, and must not generate appraisal reports which are incomplete, misleading or without basis in fact. An appraiser must not render an opinion without making use of proper appraisal methodology and research in order to expedite a client's wishes or to satisfy demands made by other intended users or third-parties.

An appraiser must be competent in his or her field. If lacking the requisite qualifications, the appraiser must take remedial action to either gain the necessary competence through study, training and experience, or by calling upon experts and/or other specialist appraisers or consultants for assistance. Such steps failing, the appraiser must decline or withdraw from the assignment. As an option to declining or withdrawing from the assignment, with the consent of the client the appraiser could appraise those items for which he or she is qualified and then refer

the client to other specialist appraisers to appraise those items for which the appraiser is not qualified.

On occasion, the appraiser should consider terminating an appraisal assignment before completion. An appraiser should terminate an appraisal assignment:

- If the appraiser realizes that he or she is not qualified to perform the assignment and is, therefore, unable to complete the appraisal report in a competent manner,
- If the appraiser loses the client's confidence,
- If the client limits the assignment's scope of work to such an extent that the appraiser does not feel he or she is able to develop credible assignment results,
- If the appraiser realizes that it is unfeasible or difficult to ensure the quality of the appraisal services being rendered. This situation can be based upon inducement of the appraiser by the client to perform illegal, unfair, unethical or fraudulent acts,
- If the appraiser develops a conflict of interest which would prevent him from performing in an unbiased and impartial manner or which would prevent him from rendering a credible and non-misleading opinion or conclusion, or
- If the appraiser is denied access to pertinent data or is not provided sufficient time to properly inspect the property being appraised.

An appraiser must not interfere in the client's personal affairs regarding matters that are not attributed to the appraisal process, and the appraiser must refrain from giving advice which is not within the scope of the appraisal process. For instance, unless qualified and licensed to do so, an appraiser must refrain from giving the client legal, insurance, tax, accounting, personal or estate planning advice.

Co-clients: An appraiser shall generally serve only one client with respect to a valuation assignment; however, the appraiser **may** serve more than one client with respect to the same assignment if consent is obtained from both parties to act in such a dual capacity. If doing so, the appraiser should notify all interested parties that the appraisal assignment will be terminated if serving more than one client concerned with the same valuation problem becomes irreconcilable with being impartial. When working for more than one client on the same assignment, the appraiser must not reveal personal and confidential information obtained from one client to the other. A typical instance in which the appraiser might work for more than one client at a time is when performing divorce appraisals.

The Appraiser-Client Relationship

The special relationship that the appraiser has with the client makes it incumbent upon the appraiser to reveal neither the results of an assignment nor any confidential information, other than as permitted by the Confidentiality section of USPAP's ETHICS RULE.

According to the ETHICS RULE, there are two types of information of concern: **confidential information** obtained from the client and the **results of an assignment** (i.e., the appraiser's

opinions and conclusions). These are the only types of information the release of which is governed by USPAP.

USPAP states that confidential information and the results of an assignment may be disclosed by the appraiser only to:

- The client and anyone specifically authorized by the client, e.g., an insurance company, or, in the case of a divorce, to the client's attorney,
- Third-parties authorized by due process of law, e.g., pretrial discovery, depositions, court testimony by the appraiser, or
- A duly authorized appraisal society's peer review committee

USPAP defines *Confidential Information* as:

> *CONFIDENTIAL INFORMATION: information that is either:*
>
> - *identified by the client as confidential when providing it to an appraiser and that is not available from any other source; or*
> - *classified as confidential or private by applicable law or regulation.*

The Confidentiality section of the ETHICS RULE prohibits the appraiser from disclosing either **assignment results** or **confidential information** (as defined above), but it also requires the appraiser to:

> *...protect the confidential nature of the appraiser-client relationship*
>
> and
>
> *...act in good faith with regard to the legitimate interests of the client in the use of confidential information and in the communication of assignment results.*

So, can the appraiser disclose the client's name for the current or for a prior assignment to a third party without the client's permission? And can the appraiser disclose to others the identification of a particular property that he or she had appraised?

While not prohibited by USPAP from doing so, appraisers commonly consider the identification of the client to be confidential and not to be disclosed. Appraisers also commonly consider the identification of the appraised property itself to be confidential information and also not to be disclosed, particularly if by association the owner/client could be identified by the revelation of the identification of the property appraised. An example would be if you appraised a property which was widely known to be owned by a particular celebrity. In such a scenario, by merely revealing that you had appraised that particular property, the owner/client could be easily identified. This could be problematic, especially if the owner/client wanted to remain anonymous.

Given that the Confidentiality section of the ETHICS RULE requires that an appraiser *"must protect the confidential nature of the appraiser-client relationship,"* I would recommend that

such information as the name of the owner/client and/or of the property being appraised if linked to the owner/client's identify remain confidential.[468], [469] This would be especially applicable if the owner/client instructs the appraiser to not disclose his or her name or that a particular property of theirs had been appraised. In such a case, that information immediately becomes confidential.

In general, in order to best protect the confidential nature of the appraiser-client relationship and the legitimate interests of the client, most appraisers consider as confidential information regarding the assignment to include the identity of the client (name, address, phone, email, etc.), the identity of the property being appraised, the results of the appraisal assignment (i.e., the appraiser's opinions and conclusions), and any information specifically declared by the client as being confidential. Most appraisers also consider any material in the assignment workfile to also be confidential including computer files, photographs, written notes, telephone logs, assignment invoices, etc.

Discussing the Report with Intended Users

The scope of work as well as the content of the report will depend to a large degree not only on the intended use of the report but also on the needs of the client **as well as other intended users**. For instance, a client might be the executor of the deceased father's estate, and the executor's siblings might be identified by the appraiser (in communication with the client) as being intended users having special needs regarding the content of the report. Although intended users other than the client might play an important role regarding report content, they are not entitled to discuss the assignment results or confidential information related to the assignment with the appraiser without the client's authorization. (2020-2021 USPAP FAQ #63)

Disclosing Past Appraisals as Examples of Appraiser's Work Product

On occasion, the appraiser may have a need to provide prospective clients with examples of past appraisal reports in order to be considered for an assignment. An appraiser might wish to display a past appraisal on his or her website as a demonstration of appraisal competence. An appraisal course instructor might wish to make use of a past appraisal report for demonstration purposes in class. All these scenarios have one thing in common—the sample appraisals being used might contain confidential information and their use, without modification, would be a violation of the Confidentiality section of USPAP's ETHICS RULE. (2020-2021 USPAP FAQ #59)

This issue can be overcome by modifying the sample reports containing confidential information (most commonly via redaction) as noted in the Comment to the ETHICS RULE's Confidentiality section which states:

> *Comment: When all confidential elements of confidential information and assignment results are removed through redaction, or the process of aggregation, client*

[468] Appraisers can, however, disclose the identification of a property appraised if such information cannot be linked to the property's owner.

[469] While most appraisers typically consider the identification of the property appraised as assignment results and, therefore, to be confidential information, the property's **physical characteristics** are specifically declared to not be assignment results by USPAP's definition of the term *Assignment Results.*

authorization is not required for the disclosure of the remaining information, as modified.[470]

There are two commonly-used techniques for redacting sensitive appraisal report content:[471]

- Print out a copy of the appraisal report, redact the sensitive information, and then fax the redacted report to the would-be client, or

- Make a copy of the appraisal report on your computer—e.g., as a MS Word file. Redact the sensitive content by making the sensitive text as well as its background color black. Save/print the resulting file as a PDF file. Send the PDF file to the would-be client as an attachment via email. Do not send the original Word .doc or .docx file as the redaction can be reversed, thus revealing the sensitive information.

Copywriting Appraisal Reports

The Appraisal Standards Board does not take a position on whether or not appraisal reports are copyrightable. However, if the process of copyrighting an appraisal report with the U.S. Copyright Office resulted in the disclosure of assignment results or of confidential information, then such a process would violate the Confidentiality section of USPAP's ETHICS RULE unless prior approval for such a disclosure had been received from the client (2020-2021 USPAP FAQ #71).[472] Personally, I cannot conceive of an instance in which an appraiser would want or need to copyright an appraisal report.

Ethical Obligations to Other Intended Users

Occasionally there are intended users of the assignment report other than the client. As an example, the client might be using the appraisal report to secure insurance coverage for household contents. In such a case, the insurance company underwriters and possibly adjusters (who might become involved should there be a loss) would make use of the report. An appraisal done to aid in the equitable division of a decedent's property will be used by all the heirs.

Intended users of the appraisal report have as much right to rely on the accuracy and objectivity of the appraisal report as does the client, so long as the appraiser has identified the intended users as such in the report. The appraiser identifies intended users through communication with the client during the problem identification phase of the appraisal process. The needs of intended users thus identified must be incorporated into the appraiser's planned scope of work.

While the appraiser will normally be informed about who the intended users of an appraisal report will be, on occasion, the report will fall into the hands of and be made use of by

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[470] In this regard, "confidential elements" being redacted would typically include information that could identify the client such as name, address, phone number, email address, etc. The identification of properties widely known to be owned by a particular person should also be considered as a confidential element needing redaction.

[471] Of course, the appraiser could avoid issues involving inadvertently disclosing confidential information and/or assignment results in the sample report altogether by not using an actual, albeit redacted, report but, instead, composing a hypothetical appraisal report containing a pretend client and assignment results.

[472] See the Chapter 13 section entitled *Who Owns an Appraisal?* for a related discussion regarding maintaining confidentiality when buying or selling an appraisal business.

unauthorized third-parties not considered as potential users of the report and who were not understood to be such as the appraiser was preparing his or her report. Appraisers should make attempts to limit their liability to claims by these unauthorized third-party users through such avenues as errors and omissions **insurance** and/or through the use of appraisal report **disclaimers** and **terms of use**[473] which:

- Clearly identify the intended use of the appraisal:

  > *You stated that you will use this report to establish a basis on which to calculate an income tax deduction for a noncash charitable contribution. Any other use of this appraisal report renders it* ***null and void****.*

- Identify the client and other intended users:

  > *This report is intended for use only by you (my client), your agent and by* ***[list other intended users here e.g.,*** *the beneficiaries to the estate being appraised* or *your tax preparer.]*

- Limit the appraiser's liability to only the client and identified intended users; give notice that unauthorized third-parties rely on the appraisal conclusions at their own risk:

  > *With the exception of you (my client), your agent and identified intended users listed herein (if any), this appraisal report is not intended to be used by or influence any particular person(s) or class(es) of persons which might take some action in reliance upon it. Unless otherwise stated, I am not aware that you or your agent intend to transmit any information contained in this report to any other person(s) or group(s) other than to the appraiser-identified intended users listed herein. Regardless of who receives a copy of this report, my liability is limited to you and to the identified intended users of this report to the exclusion of all others. Parties other than those specifically listed as authorized intended users of this report who take some action in reliance upon this report do so at their own risk. Note that parties who receive a copy of this report as a consequence of disclosure requirements do not automatically become intended users. Intended users must be identified as such by me at the time of the assignment.*

Pressure by Third-Parties

An appraiser must not ignore the performance and ethical standards of professional conduct because of third-party intervention in the appraisal process. Intervention can take the form of pressure (by clients, lawyers, trust officers, accountants, claims adjusters, heirs, insurance agents, etc.) placed on the appraiser toward a predetermined value conclusion or to take "short cuts" in order to expedite the appraisal process. Appraisers must avoid assignments in which the appraiser's conclusions are unduly influenced by the client, other intended users or third-parties, or in which the appraiser would feel compelled to be an advocate for the interests of a client.

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[473] See the Chapter 6 section entitled *Disclaimers and Terms of Use* for a related discussion.

While USPAP does not require an appraiser to certify in the report that he or she has not been coerced to provide predetermined results, Standards Rule 8-3(a) does require an appraiser-signed certification which states, in part:

> *…my engagement in this assignment was not contingent upon developing or reporting predetermined results.*

Ethical Obligations to Colleagues and the Appraisal Profession

The professional appraiser has obligations not only to other appraisers but also to the profession as a whole. To help maintain the public's trust in the appraisal profession, the appraiser should comply with USPAP whenever performing as an appraiser. This obligation requires that the appraiser perform the service ethically and competently and in a manner that is independent, impartial and objective.

Appraisers who are members of appraisal societies which have governing codes of ethics and standards of practice are required to comply with those codes and standards as well. A profession with enforceable ethics and standards gives credibility to all the members of that profession. Conversely, the unprofessional conduct of any individual member reflects negatively on the ethics of the entire profession. Ignorance of the ethical consensus or standards of the profession does not absolve an individual in that profession of the ethical responsibility to act according to those standards. Members of appraisal societies which have enforceable codes of ethics who fail to comply with the code may also be subject to disciplinary procedures and, possibly, to penalties.

It is unethical for an appraiser to injure or attempt to injure the reputation of another appraiser by disparagement, innuendo, or false or malicious statements. Neither must an appraiser abuse a colleague's good faith or be guilty of a breach of trust by being disloyal to a colleague or by taking credit for work done by a colleague. An appraiser must not order or prompt another appraiser to perform an act that is contrary to the professional conduct and standards of the profession.

An appraiser must not attempt to obtain from a would-be client an appraisal assignment that is known to have been assigned to a colleague. Such an attempt can take the form of implied or real disparagement of a colleague, or by reducing a previously quoted fee in order to secure an assignment that has already been assigned to another. (Bidding for an appraisal assignment must be based on the nature of the assignment, the anticipated effort and services to be rendered, and the anticipated responsibilities of the appraiser.)

An appraiser must not pay or otherwise reward an agent or any contracting person by the use of an **undisclosed** payment of cash or "things of value" in order to procure an appraisal assignment. According to the Management Section of USPAP's ETHICS RULE, any such payments made by the appraiser in order to **procure** an assignment must be disclosed in the report.

Appraisers should contribute as far as possible to the development of the profession through the exchange of knowledge and experience with fellow appraisers and students of appraising. The appraiser should also educate and inform the general public about the appraisal profession.

The appraiser must not demean the profession by unfair competition such as false advertising or representation of services, bait-and-switch selling tactics, theft of trade secrets, trademark infringement, misrepresentation of qualifications, etc.

The appraiser is obligated to cooperate fully with his or her parent society in all matters relating to the processing of ethics charges against society members who are charged with violating the society's ethical and performance standards.

Ethical Obligations When Giving Testimony

Should an appraiser be called upon to offer litigation testimony in the way of deposition or expert witness testimony at trial, the appraiser has the obligation to present his or her findings in a truthful, complete, and objective manner without bias towards the client or the client's case.[474] In addition, the appraiser must not become an advocate for his or her client by:

- Misleading or attempting to mislead a court of law in favor of the client,
- Suppressing information that might be perceived as being detrimental to his or her client's case, or
- Overemphasizing opinions that are favorable to the client's case or by minimizing opinions that are unfavorable to the client's case.

Conflict of Interest

Many appraisers have other businesses in which appraising is an adjunct service. For instance, appraisers are also often antiques dealers, jewelry store owners, restorers, repair specialists, auctioneers, estate liquidators, brokers, downsizing specialists, interior designers, etc.

Conflicts of interest can arise when the appraiser has had or develops a financial interest in an item he or she is being asked to impartially appraise. For instance, an appraiser/dealer or appraiser/collector might be interested in purchasing an item he or she is being asked to appraise. A jewelry store owner might have sold the client the ring that the store owner is now being asked to appraise, or an auctioneer may wish to take on consignment a property that the auctioneer is being asked to appraise.

An appraiser must avoid the following situations—all of which are viewed as involving a conflict of interest:

- When the appraiser stands to benefit financially in a way that is contingent on the outcome of the client’s use of the appraisal,
- When the appraiser is biased for or against the client, the client's agents, intended users, or the property itself,

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[474] See the Chapter 12 section entitled *Expert Witness Testimony* as well as Appendix GG: *Seven Essential Deposition Tips* for more regarding this topic.

- If the appraiser owns the property being appraised, or



- If, at the time of or during an appraisal assignment, the appraiser has the desire to purchase (or to take on consignment) the item being appraised.

Appraisers must distance themselves from conflicts of interest by recognizing their moral obligation and their duty to society to maintain impartiality, but there are varying degrees of conflict of interest. An appraiser need not reject an assignment because he or she has a personal interest **if** a "reasonable person," given the same circumstances, would conclude that the appraiser's judgment would not be affected by that interest.

- Some conflicts of interest are so severe that the appraiser should immediately excuse him- or herself from the assignment and refer the client to another appraiser such as might be the case with a dealer/appraiser who is interested in purchasing the item he is being asked to appraise. The conflict would also be too severe in the case of an appraiser having a bias towards the parties involved in the assignment. In such cases, a reasonable person would conclude that the appraiser's opinions and conclusions would likely be colored by his or her financial interest in the property or bias towards the parties involved, respectively.



- However, some conflicts of interest are relatively insignificant. In such cases, a reasonable person would not expect the inconsequential conflict of interest to impact on the appraiser's opinions or conclusions.

  For instance, assume a client purchased a diamond ring from a jewelry store and returned to the store's appraiser two years later to have the ring appraised for the intended use of acquiring insurance coverage (not to sell back to the store!) While the appraiser should disclose in the report that his or her store had sold the item to the client two years earlier, a reasonable person would probably not conclude that the past interest would prevent the store's appraiser from rendering an impartial, objective and credible opinion of replacement value for the intended use of acquiring insurance coverage.



- Some conflicts are not so clear-cut. Consider an appraiser (who also works for an auction company) who is asked to develop an opinion of fair market value for estate tax purposes of a valuable painting in a decedent's estate. In such a case, care must be taken to ensure that the appraiser's objectivity is not compromised by a prospective interest in the property such as might exist if the appraiser is asked to appraise and then sell the painting via the appraiser's auction company.

  This scenario requires some clarification. Is the appraiser only conducting the appraisal, or is the appraiser (and his auction company) also being asked to sell the appraised property? If the latter, was the request to sell the property made before or after the appraisal was completed?

  If the appraiser believes in advance that the client might consider selling the painting through consignment to his auction company, such a prospective interest might prevent the appraiser from developing an objective and credible opinion of value. How so? The appraiser might be perceived as lowballing opinions of fair market value in order to lessen the estate's federal estate tax burden, thus currying favor with the client in order to

entice the client to sell the painting through the appraiser's auction house.

- As noted in the following section, USPAP requires the appraiser/auctioneer to disclose in the appraisal report's certification whether or not he or she has either a **past** or **prospective** interest in the property being appraised.

  - It would be a "prospective" interest if, prior to or during the appraisal assignment, it is agreed that the appraiser, acting as agent for the client, will also liquidate the appraised property.

  - On the other hand, if discussions regarding the possibility of any such prospective interest do not take place until the appraisal assignment has been completed, then there would be no prospective interest and no such disclosure in the report need be made. Neither would there be reason to be concerned that the appraiser's opinion of value would be other than objective.

Takeaway: Appraisers who are involved in related services should not solicit a client for related services regarding a property being appraised (such as soliciting for future liquidation services); rather, let the client ask for those services—but enter into such discussions only after the appraisal has been completed.[475]

Disclosure of Appraiser's Interest in Property

USPAP does not prohibit the appraiser from having a past, present or contemplated future interest in the property being appraised; however, USPAP does require that the appraiser disclose such interests within report if they are known prior to agreeing to perform an assignment or if they are discovered during the course of the assignment.

- The USPAP certification requires the inclusion of a statement disclosing any "present or prospective" personal interests in the property or the parties involved such as the following:

  I have no (or the specified) present or prospective interest in the property that is the subject of this report, and I have no (or the specified) personal interest with respect to the parties involved.

- In addition, the Conduct section of the ETHICS RULE requires that the appraiser also disclose in the report any **past** services performed regarding the subject within the previous three years (as an appraiser or otherwise).

If the appraiser has or had an interest in the property being appraised, he or she can still accept the assignment as long as the appraiser is competent and can perform the assignment in an unbiased and ethical manner. But if the appraiser's past, present or contemplated future interests in the property would prevent the assignment from being performed in an unbiased and objective manner, then the assignment must be declined.

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[475] For a related discussion of this issue, see **Estate of Eva Kollsman v. Commissioner** in the Chapter 13 section entitled *Tax Court Cases: Fair Market Value.*

Fee Structures

Appraisal fees should be fair and reasonable and should correspond to the type and amount of services rendered, the experience and education level of the appraiser, and the liability to which the appraiser feels exposed by virtue of undertaking the assignment. Geographical differences might also affect the appraiser's fee structure, and the amount of the appraiser's fee must not be so low as to adversely affect the quality of the appraisal services rendered.

It is unethical and illegal for appraisers to collaborate with other members of the profession to fix a fee structure.

Appraisers should provide the client with all the explanations necessary to the understanding of any proposed fees as well as the terms and conditions of payment including disbursement schedules, anticipated billable expenses, amounts necessary to pay for third-party services, and non-payment recourse.

Most appraisers charge an hourly rate for services rendered. Some appraisers charge by the item or charge a flat fee for the entire assignment. The latter technique would be necessary if bidding on an assignment, but it can be determined only after a preliminary inspection of the property to be appraised. Some appraisers choose to add additional charges for expenses such as postage, photographs, travel, photocopies, etc., while other appraisers choose to absorb those expenses into their hourly rate. While many appraisers charge a flat hourly rate for time spent on the assignment regardless of the activity, some appraisers choose to charge different hourly rates for different types of assignment-related activities such as travel, research, document preparation, or deposition/court time.

Appraisers must not charge **contingency** fees which are unethical. The following are examples of the more commonly-encountered unethical contingency fee practices:

- A fee based on a percentage of the total value conclusion
- A fee based on the appraiser having the ability to purchase the property being appraised
- A fee based on the successful outcome of a private or commercial transaction, or on the successful outcome of a court case in which the appraisal report was used
- A fee based on the amount of a favorable court award to the client resulting from the use of the appraisal report
- A fee based on the successful consummation of a sale of a property in which the appraisal report was used
- A fee based on the appraiser reaching a value conclusion as dictated by the client, his or her agent, or a third-party, i.e., a predetermined result

Discounted Appraisal Fees

It is not unethical to offer reduced appraisal fees to clients that send the appraiser a large volume of business. An appraiser may establish his or her fee structure based on several factors, including the volume of business received, business relationships and even on method of payment. Just be

sure that you comply with USPAP's Management section of the ETHICS RULE which addresses, in part, contingency fees which must be avoided. (2020-2021 USPAP FAQ #45)

Fees Paid by Appraiser to Procure an Appraisal Assignment

Unless disclosed, payments made in order to obtain an appraisal assignment are also prohibited as noted in the Management section of the ETHICS RULE:

> *An appraiser must disclose that he or she paid a fee or commission, or gave a thing of value in connection with the procurement of an assignment.*
>
> *Comment: The disclosure must appear in the certification and in any transmittal letter in which conclusions are stated; however, disclosure of the amount paid is not required. In groups or organizations engaged in appraisal practice, intra-company payments to employees for business development do not require disclosure.*

Disclosing the fact that a payment was made in the appraisal certification and in the transmittal letter is sufficient to satisfy this requirement; however, the appraiser can disclose the amount or nature of the payment if he or she so chooses. (2020-2021 USPAP FAQ #46)

USPAP Compliance Required Even if no Assignment Fee

Some appraisers provide pro-bono appraisal services, such as performing as an appraiser at local Historical Society "Appraisal Days." Regardless of whether or not a fee is charged, the appraiser who is obligated to comply with USPAP because of law, regulation, agreement or societal mandates must follow USPAP. USPAP's applicability is not affected by the amount of or lack of an assignment fee. (2020-2021 USPAP FAQ #48)

Fees Paid to Procure an Appraisal Assignment vs. Finder's (Referral) Fees

Appraisers often wonder if they are allowed to request a finder's fee when referring a would-be consignor to an auction house. Or if they can pay others to send them appraisal business. It is a confusing issue and the waters quickly become even more muddied when one takes into consideration that many appraisers perform in other roles, such as dealers and auctioneers—roles which are not governed by USPAP and roles for which the awarding of finder's fees is a common practice.

USPAP sets forth requirements regarding fees or things of value being **proactively** paid by one performing as an appraiser in order **to procure** an assignment, but USPAP does not address accepting finder's fees.[476]

An earlier section addressed the issue of an assignment procurement fee paid **by an appraiser** in order to **procure** an assignment. A type of fee that might appear to be related (but is not) is the "finder's fee" (a.k.a. assignment referral fee).

[476] This is to be expected, since USPAP applies only to appraisers and not to individuals performing in non-appraiser roles such as dealers, estate liquidators, auctioneers, etc.

For our purposes, the two terms are defined as follows:

- An **assignment procurement fee** is a monetary fee or a thing of value given by the appraiser to a person or entity in order to procure an assignment. It is intended to be a **proactive** inducement to the referring entity to send appraisal business to the appraiser. As noted above, according to USPAP's ETHICS RULE, unless disclosed, such assignment procurement fees are unethical. Disclosure of such fees must be made within the USPAP certification as well as in any transmittal letter in which conclusions are stated. Note that the appraiser is not prohibited from accepting an assignment procurement fee—he or she just needs to disclose the fact.

- A **finder's fee**, on the other hand, is a financial reward given to an individual (who could be performing either as an appraiser or in a role other than as an appraiser such as an estate liquidator) who has acted as an intermediary or "middleman" to make a strategic introduction in order to bring two parties together for the purpose of a mutually-beneficial business transaction.

  For our purposes, the **finder's fee** is associated with the appraiser **receiving** a finder's fee for referring someone seeking **non-appraisal** related services to a **non-appraiser**. A common example is a finder's fee paid by an auction house to an appraiser who referred a consignor to the auction house (a non-appraiser) in order to sell a property (a non-appraisal related service).

While USPAP has taken a position on **assignment procurement fees** where appraisers are proactively offering fees or things of value in order to induce an individual to send them appraisal business, USPAP has taken no position on **finder's fees**. However, based on good appraisal practice developed over the past many years, the issue of how to handle finder's fees can be better understood.

While there is no governing requirement (either USPAP or otherwise) regarding this issue, in my opinion an **appraiser** (when acting within appraisal practice as an appraiser) should not charge or accept a finder's fee for referring an **appraisal** client to another **appraiser**. Why? It is a matter of perception. An appraiser has a duty and obligation to the public to refer the client to another appraiser without compensation. Otherwise, the public's perception might be that appraisal assignment referrals are being made to the appraiser paying the highest referral fee instead of to the appraiser who is the most qualified.

The above added emphasis is meant to stress that this rule addresses the referring individual when that individual is acting **in the role of an appraiser**, and when that individual is referring an **appraisal** client to another **appraiser**.

- Note that this rule does not preclude the appraiser from accepting a finder's fee when he or she is referring **non-appraisal clients** to **non-appraisers**.

- Nor are there any prohibitions against the individual receiving a finder's fee for **non-appraisal** related business activities, i.e., when the referring individual is performing in a capacity outside appraisal practice and outside the role of an appraiser. An example would be a finder's fee paid by an auction house to an individual performing as an estate liquidator (who also happens to be an appraiser) for a referral to that auction house of a would-be consignor.

> USPAP (as well as professional appraisal societies) establishes standards of ethics and practice for the professional **only when that professional is performing in the role of an appraiser**. They do not establish standards for the professional when that individual is performing an adjunct service outside appraisal practice such as when performing in the capacity of an auctioneer, dealer, broker, estate liquidator, etc.

The Appraiser Being Asked to Pay a Referral Fee to a Non-Appraiser[477]

A seemingly gray area (and one which USPAP does **not** address either) regards the appraiser being asked to pay a referral fee by an individual who is not an appraiser, such as a dealer who requests (demands?) a finder's fee for having referred an appraisal customer to the appraiser.

USPAP addresses only the paying of a fee or thing of value by one performing as an appraiser who is attempting to entice a party into sending the appraiser **future** business—in other words, an assignment procurement fee. In the above scenario, however, the appraiser is not proactively offering to pay an assignment procurement fee to the dealer in order to "procure" a future assignment. Instead, the dealer independently referred a customer to the unsuspecting appraiser and subsequently requested a fee for having done so, i.e., the dealer requested a finder's fee from the appraiser. In an after-the-fact situation such as this (and if paid by the appraiser), since it is not an assignment procurement fee, not only would it not be necessary for the appraiser to disclose such a "Thank You" finder's fee in the report, but it would also be impossible to do so if the report had already been completed.

If, on the other hand, the appraiser enters into a standing agreement that the appraiser will pay the dealer $X for every future referral, then that would constitute an assignment procurement fee. In such a case, the appraiser must disclose the assignment procurement fee in the report in accordance with the ETHICS RULE.

My Personal Preference

My personal preference is to decline to pay referral fees for appraisals that are sent to me—either by another appraiser or by a non-appraiser. If I am approached by a non-appraiser referring party requesting a referral fee after-the-fact, I will politely decline and explain to the referrer that my policy is to not pay referral fees because of the appearance of conflict of interest that such payments could generate. For instance, if a dealer referred a would-be seller to me to develop an opinion of orderly liquidation value on an item that the dealer wanted to buy from the seller, the perception might be that by me paying the dealer a referral fee (even for an unsolicited assignment), I was performing as a biased advocate for the dealer and, as such, might be complicit in setting a selling price that, instead of being objective and independent, was actually advantageous to the dealer.

And while the ETHICS RULE permits me (with proper disclosure in the report) to pay referral fees connected with actively attempting to procure assignment by paying assignment procurement fees, I choose not to pay them, either. Remember, I can always send a "Thank You" bottle of wine at Christmas.

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[477] See the Chapter 13 section entitled *Negligent Referral* for a related discussion regarding referrals.

Misrepresentation in Advertisement or Self-Promotion

"Misrepresentation" is a contract law concept. It means a false statement of fact made by one party to another party which has the effect of inducing the latter party into the contract. For example, under certain circumstances false statements or promises made by a seller of goods regarding the quality or nature of the product that the seller has may constitute misrepresentation as could a false statement regarding an individual's education, training, experience, work product or professional credentials. An appraiser could be found legally liable for damages should there be a finding of **misrepresentation**.

It is unethical for a professional appraiser to mislead, falsify, or otherwise misrepresent the types of services rendered or the level of the appraiser's experience or qualifications in the course of advertising his or her appraisal services in self-promotional efforts such as in the design of business cards or brochures, websites, promotional ads, or in the content of a résumé or professional profile (curriculum vitae (CV)).

USPAP's ETHICS RULE states that:

> *Advertising for or soliciting assignments in a manner that is false, misleading, or exaggerated is unethical.*

Professionals must also be careful to not misrepresent their association with a professional society, their level of designation in a society, their background or education, their competency or qualifications to perform a particular service, or their years of experience. Appraisers must also avoid advertising that appraisal conclusions will be tailored to meet the client's desires.

An appraiser has an obligation not to make any misrepresentation to the client, other intended users or to the general public. Any misrepresentations made during the appraisal process could have a serious adverse impact on the appraiser, on an economic decision being made by the client, and on the manner in which the public perceives the appraisal profession as a whole.

Growing Misuse of "USPAP Certified Appraiser" and "USPAP Certified Appraisal"

There appears to be a growing use by appraisers of two USPAP-related terms the use of which might be construed as being misleading—thus this caution.

In the first instance, an appraiser refers to him- or herself as being a "USPAP certified appraiser." In the second case, the appraiser states that he or she offers "USPAP certified appraisals."

According to the Director of Research and Technical Issues at The Appraisal Foundation, *"The Appraisal Foundation does not certify appraisals or appraisers."* 2020-2021 USPAP FAQ #43 states:

> *There is no such credential* [as "USPAP Certified"]. *The use of the expression "USPAP Certified Appraiser" is misleading. Completing a USPAP course does not entitle one to call oneself a USPAP Certified Appraiser...The use of language such as "USPAP Certified Appraisal" could be taken by intended users to mean that there was some independent certification of compliance. If that could be inferred from the language used, this would also be misleading.*

The above alone should give one pause for using the two questionable terms, but there are additional reasons as well.

The ETHICS RULE of USPAP prohibits advertising in a false, misleading or exaggerated manner. Doing so, of course, endangers public trust in the appraisal profession—and recall that maintaining the public's trust is the primary reason for the development of USPAP in the first place. In addition, during deposition or testimony the opposing attorney might take an appraiser to task for promoting him- or herself as being a "USPAP certified appraiser" or offering "USPAP certified appraisals" when The Appraisal Foundation itself has stated that no such type of appraisers or appraisals exist.

Why do appraisers use such terms? The first reason sometimes given for doing so is because they had successfully completed the 15-hour National USPAP Course and had received a piece of paper referred to as a "certificate of course completion" stating so. This is a dangerous route to take, as it violates the public's trust by giving the impression that the appraiser has been certified by a bona fide certifying authority. Most professionals agree that a certificate of course completion does not equate to being certified by a recognized body that is empowered to do so. The former requires warming a seat and (maybe) passing a test. But the latter requires a certifying entity—usually a professional society or a government agency—attesting to the fact that an individual has done whatever it is that is required by that entity for the awarding of the "Certified" designation.

Some also claim that the use of the term "USPAP certified appraisal" is appropriate and is not misleading because the inclusion in the appraisal report of the mandatory, signed USPAP certification causes the report to become "USPAP certified." I do not agree.

I can find no justifiable link between an appraisal being labeled "USPAP certified" and the inclusion of the USPAP certification statement within a report. The USPAP certification is merely an attestation by the appraiser to certain elements of information contained in the report regarding the assignment. Simply including a USPAP certification in the report does not satisfy the public's understanding (and, indeed, expectation) that a "USPAP certified appraisal" (if one existed) would be one which had been reviewed and found USPAP compliant by a bona fide credentialing authority. And there are no such entities which do so—certainly not The Appraisal Foundation.

In as much as USPAP was designed and is maintained with the express purpose of maintaining the public's trust and confidence in the profession of appraising, to promote oneself as a "USPAP certified appraiser" or as one offering "USPAP certified appraisals" based on receiving a certificate of course completion or on the inclusion of a USPAP certification in a report does not meet the public's expectations. As a result, doing so would appear to be misleading and in violation of the USPAP ETHICS RULE regarding false, misleading or exaggerated advertising.

Using the Acronym "USPAP" After Your Name

By the way, a related faux paw is making use of the acronym "USPAP" by itself behind one's name as a designation-look-a-like. That, too, is misleading. The public expects that acronyms following a professional's name amount to a designation, i.e., an earned recognition awarded by a professional organization attesting to the fact that the individual has complied with whatever it is that the organization requires for earning the designation. "ASA" and "ISA CAPP" are a couple examples of well-known designations from recognized personal property appraisal organizations. "USPAP" after one's name, on the other hand, means, in fact, nothing. Placing "USPAP" after one's name is misleading the public, to say the least, and would appear to also violate USPAP's ETHICS RULE admonition against false and misleading advertising.

To be most accurate, I suggest that appraisers simply state in their promotional literature and websites that their appraisals are prepared *"in compliance with USPAP."* This is a non-misleading way to emphasize that your assignments are performed in conformity with the generally accepted standards of USPAP. And appraisers who have done so can also make mention in their curriculum vitae and promotional literature that they have:

> *"Completed the 15-hour National USPAP Course taught by an AQB-certified National USPAP course instructor and have passed the associated course exam."*

This is a non-misleading way to emphasize your knowledge of and proficiency in USPAP.

The bottom line is that in order to preserve the public's trust in the appraisal profession it is of paramount importance that, among other things, appraisers promote themselves in a manner which is not misleading. Regarding the use of terms of societal designation such as "Certified," or "Accredited," or "Accredited Senior Member," etc., it is imperative that their use be truthful, transparent and conforming to societal standards as well as to the public's well-documented expectation as to what such terms signify.

Unconsidered Opinions of Value

An unconsidered opinion of value is an off-the-cuff opinion made within a restricted time frame without the opportunity to completely identify the assignment problem or the relevant characteristics of the subject property and/or to conduct proper and sufficient confirming research when such research would otherwise be required given the intended use of the appraisal and the type and definition of value being developed. It is unethical to represent an unconsidered opinion of value as an appraisal.[478]

Unconsidered opinions of value are offered without basis because of limiting conditions. Most often they are rendered orally with minimal or no inspection of the property or even of photographs of the property, and often without having conducted the appropriate amount of market and value research and analysis—in short, without having applied the complete appraisal process which characterizes good appraisal practice. Consequently, unconsidered value opinions are not credible—they fail to take into consideration all the relevant facts and/or fail to make use of recognized appraisal techniques, methodology or standards.



When opinions of value are offered orally, the appraiser must comply with USPAP Standards Rule 8-4 *Oral Appraisal Report* which states that to the extent possible and appropriate, oral personal property appraisals must address the substantive issues set forth in SR 8-2(a) (i.e., equivalent to an Appraisal Report) and must comply with USPAP's RECORD KEEPING RULE. The RECORD KEEPING RULE requires that a written summary of the appraisal along with a signed USPAP certification be added to the oral appraisal assignment workfile, and that the workfile contain sufficient information to produce a written Appraisal Report, if ever there should be a need to do so.[479]

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[478] Do not confuse "unconsidered opinions of value" with "oral appraisals" being performed by an appraiser making use of past experience and personal observations to develop an opinion of value without the necessity of performing value-confirming research. The former is not USPAP-compliant. The latter is.

[479] See the Chapter 1 section entitled *Oral Reports*, the Chapter 5 section entitled *Oral Appraisal Reports,* and the Chapter 7 section entitled *When Must an Appraiser Comply with USPAP?* for cautions to be taken by appraisers when offering value information orally such as during a cocktail party, a backyard barbeque, or at an "Appraisal Day" venue.

Chapter 9: Research

The research and analysis conducted by the appraiser (including the extent to which the subject property is inspected and identified) will vary from assignment-to-assignment, but in all cases, research will be directed by the appraiser's scope of work decision which was formulated early on in the appraisal process just after Step #1, the problem identification phase, had been completed.[480]

The foundation for an appraiser's final value opinion or conclusions is factual information derived from systematic value research conducted within the appropriate marketplace. Regardless of the intended use of the appraisal or of the type and definition of value being used by the appraiser, research is at the core of nearly all appraisal assignments. The credibility with which clients, intended users and the courts view the appraiser's work product will be gauged by the research-generated evidence on which the appraiser's opinions and conclusions are based.

Depending on the scope of work as it is identified through consultation with the client, the research itself might be exhaustive or it might be rather minimal (and, at times, non-existent[481]), but in any case, the appraiser's conclusions is normally based on factual evidence—evidence that can only be uncovered through research.

- A near-exception to this rule is for assignments having an intended use which would permit experienced appraisers to develop opinions of value for items of minimal value based on past personal observations to the exclusion of value-confirming research.

- The SR 7-4(e) provides guidance in support of using various degrees of analysis. It states:

> *When appraising multiple objects, the appraiser must consider the significance of the value of the individual assets to the assignment results. Those objects which are more significant to the assignment results should be the focus of the analysis and analyzed in appropriate detail.*
>
> *Comment: A group of objects may have a mix of high and low value items. Those objects that are more significant to the assignment results should be subject to a greater and appropriate depth of analysis.*

As explained earlier, identifying the **intended use** of the appraisal as well as the **type and definition of value** to be developed by the appraiser for each assignment is critical to determining the proper scope of work and to developing a successful research strategy. Having identified the intended use of the appraisal as well as the type and definition of value to employ, the appraiser is equipped to identify the most appropriate marketplace in which to seek the data that will form the basis for his or her value conclusions. In the next section, we focus on **most appropriate market** and the important part its identification plays in the appraisal process.

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[480] For purposes of this Chapter 9, we will focus on research and analysis as it pertains to **appraisal** assignments, though similar research issues may also apply to appraisal review assignments as well.
[481] Regarding research, I refer to the below-mentioned Comment to SR 7-4(e) when considering the amount of research to do when valuing estates for MD estate tax purposes when property such as everyday dishes, glassware, and pots and pans have only minimal, yard sale values. Often my past personal observations suffice, to the exclusion of any value-confirming research at all.

Most Appropriate Market

Of paramount importance to the selection of the most appropriate market to research (and, consequently, the development of meaningful and credible appraisal assignment results) is the appraiser's identification of the type and definition of value to be developed. The value type and its definition chosen must reflect the intended use of the appraisal and must incorporate relevant assignment conditions (e.g., limited time to act, extraordinary assumptions, etc.) The value definition will then direct the appraiser to the most appropriate market in which to perform research.

In its Standards Rule 7-3 *Property's Use, Market, and Relevant Economic Conditions*, USPAP provides some basic guidance regarding market selection as it relates to value definition:

> *In developing a personal property appraisal, when necessary for credible assignment results, an appraiser must:*
>
> > *(a) analyze the property's current use and alternative uses as relevant to the type and definition of value and intended use of the appraisal;*
> >
> > > *Comment: In the context of personal property, value can be a function of the choice of the appropriate market or, in some cases, market level for the type of item, the type and definition of value, and the intended use of the appraisal.*
> > >
> > > *The appraiser must consider the various uses of the property when viable alternative uses exist and when those alternative uses may result in a different value.*
> >
> > *(b) define and analyze the appropriate market consistent with the type and definition of value; and*
> >
> > > *Comment: The appraiser must recognize that there are distinct levels of trade (measurable marketplaces) and each may generate its own data. For example, a property may have a different value at a wholesale level of trade, a retail level of trade, or under various auction conditions. Therefore, the appraiser must analyze the subject property within the correct market context.*
> >
> > *(c) analyze the relevant economic conditions that exist on the effective date of the valuation, including market acceptability of the property and supply, demand, scarcity or rarity.*

Value Type and Definition Determines Most Appropriate Market[482]

In the above USPAP quote, note the important part played in the market selection process by the appraiser's choice of **value type and definition**. In general, the appraiser is guided in his or her selection of the relevant value type and definition by:

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[482] This topic is discussed in greater detail in the Chapter 2 section entitled *Value Type and Definition.*

- **The intended use of the appraisal**. An insurance appraisal might require the use of "replacement value" while a donation appraisal will require the use of "fair market value."

- **The needs of the client and other intended users**. A client in a hurry to sell may need a "forced liquidation value" whereas a client having a long time in which to sell may need an "orderly liquidation value."

- **The expectations of the market participants including the typical intended user of the report**. For instance, we anticipate that marketplace participants will always assume, when using a type of "market value," that the appraiser's definition of value will include certain characteristics that are commonly-assumed by marketplace participant. Included are that the market is open and competitive, that there will be a transfer of title as of a specified date, that both buyer and seller have knowledge of all relevant facts, that neither party is under compulsion to act, etc.

  Recall from Chapter 2 that the definition of any value used in an appraisal analysis and report involves a set of **assumptions** about the market in which the subject property is bought and sold. **Thus, indirectly, the definition of value becomes the basis for selecting the most appropriate market and associated comparable market data for use in the analysis**.

- **Mandated requirements, if any, for the use of a specific value definition**. Such requirements might originate from a legal jurisdiction (e.g., the state of California), regulatory body (e.g., the IRS defines the term "fair market value" as it must be used by the appraiser when undertaking tax liability related appraisals), or a specific user group (e.g., collateral lending institutions).

Levels of Trade and Market Levels

Choosing the most appropriate market in which to conduct research requires knowledge of **levels of trade** and **market levels**.[483]

- There are four types of markets (i.e., **levels of trade**) that the appraiser may have occasion to research: the retail market, the wholesale market, the orderly liquidation market and the forced liquidation market.

- Within a particular level of trade there exists different **market levels** which may offer the same product but at different price points—thus appealing to different classes of buyers.

The appraiser's experience with and knowledge of competing markets will guide the appraiser to the selection of the most appropriate level of trade and as well as market level to explore for a given assignment. For instance, when developing an opinion of market value for a client wishing to sell a property, by analyzing the various levels of trade and alternative market levels, the appraiser is best positioned to ensure the choice of a market that will achieve the highest price for the seller. In a similar fashion, when preparing a replacement value appraisal for a client seeking

[483] See the Chapter 1 sections entitled *Market Levels* and *Levels of Trade* as well as the Chapter 6 section entitled *Principle of Highest and Best Use* for complimentary discussions regarding this topic.

insurance coverage, an analysis of the various market options will reveal the most appropriate market, i.e., the one in which the insured could replace the subject property within a reasonable amount of time and from a market in which the insured customarily shops.

Appraisers must make use of the most relevant level of trade, i.e., they must make use of the market that best reflects the type and definition of value used which, in turn, is based on such previously-mentioned issues as the intended use of the appraisal, the needs or requirements of the client or other intended users, and/or on markets mandated by law or regulation.

- An appraiser making use of the **retail** level of trade for an appraisal done to establish asking prices for a client who must liquidate the property within a short period of time would be in error. The appraiser should have made use of comparable market data taken from the **forced liquidation market** instead.

- An appraiser making use of the **orderly liquidation** auction market level of trade for an appraisal being done for the purpose of acquiring insurance coverage for valuable antiques may be undervaluing the property. Instead, comparable market data from the **retail replacement market** should be used.

The appraiser must be aware of the most appropriate market level to use, and, as noted above, the market level used should be consistent with the intended use of the appraisal. For instance, for insurance appraisals the selection of a market level should reflect the buying habits of the client who would have to purchase a replacement property within a reasonable amount of time should the insured property be lost or destroyed. Possibilities might include local retail stores, Internet websites, or distant specialty shops.

Some wealthy clients rely exclusively upon interior designers who often obtain property through the very selective, high-end decorator market. This market level represents designer showroom asking prices to which the interior designer may get a very substantial discount that is **not** passed on to the client. Also, in this designer market level, an item may be purchased by the designer from an auction and then marked up multiple times before eventually being sold to a client. In some cases, regarding designer items, the appraiser may have difficulty finding comparable items having asking prices as high as the prices clients stated they paid for items that were purchased through a designer.

Mandated Market Choice

As alluded to above, some intended uses of appraisals require market data research from within markets that are **mandated** by laws, regulations, or by the needs of intended users. For instance:

- Reviewers of federal tax liability appraisals (such as for donation or estate) prefer the use of the sales comparison approach to ascertaining value, as it is the approach deemed proven to best reflect a typical transaction between willing and knowledgeable buyers and sellers in an open market. This approach to valuation requires the use of past sale prices (often gleaned from records of public auction sales) of comparable properties from within the marketplace in which the property is most commonly traded at retail. It is the appraiser's responsibility to determine in which market the subject property is most commonly bought and sold. Certain works of fine art most commonly sell at auction while other works sell only through a retail gallery such as a gallery representing a living

artist. On the other end of the spectrum, used children's clothing most commonly sells at yard sales while used household goods are often most commonly sold through a local auction or estate sale.

- Lending institutions may require the use of forced liquidation market data for collateral-based loans.

Appraisers must be familiar with laws and regulations (as well as with client needs and market expectations) which might serve to direct research efforts.

Examples of Most Appropriate Market[484]

Here are some examples of typical most appropriate markets:

- The most appropriate market for researching values for a client selling an old master's painting would be an international auction house.

- The most appropriate market for researching replacement values for an insurance appraisal of vintage jewelry would be retail asking prices obtained from an estate jewelry dealer.

- The most appropriate market for researching fair market value for used clothing would be yard sales or Goodwill; however, if the clothing is vintage or couture, then a vintage clothing dealer's retail store might be the most appropriate market.

- The most appropriate market for researching asking prices for a client selling large quantities of property would probably be the wholesale market where the items can be sold as a bulk lot—perhaps to a dealer for pennies on the dollar.

  If sufficient marketing time is available, however, alternative markets should be considered such as liquidation markets where buyers purchase such items one-at-a-time or in small lots instead of in bulk. Examples might be sales at traditional auctions, via online Internet auctions or online classifieds, or in consignment shops.

- The most appropriate market to research for a client wanting to sell property within a short period of time would be the forced liquidation market, examples of which might be a sale at wholesale to a dealer or through a forced auction sale. The final hours of an estate sale where sellers must deeply discount prices in order to stimulate sales would also be reflective of an appropriate market to research for those needing to sell property within a short period of time.

[484] See the Chapter 1 section entitled *Market* as well as the Chapter 6 section entitled *Principle of Highest and Best Use* for complimentary discussions regarding this topic.

The Research Process

To reach the correct value conclusion the appraiser needs to understand:

- What the subject property is (identification/authentication) including the identity of its relevant characteristics (those that affect value and marketability) and how marketplace participants react to the existence or absence of those value characteristics,
- In which markets transactions typically occur and who has access to those markets,
- How much was paid or is being asked for comparable properties, and
- That adjustments in value may be required in order to compensate for relevant property characteristic differences between the subject property and the comparable property.

A systematic approach to research and analysis during an appraisal process helps ensure that the appraiser has complete knowledge of the subject property as well as a thorough understanding of the marketplace, its participants and their whims. This "research process" includes:

- **Step 1: Identify/authenticate the subject property including recognition of the property's relevant characteristics and how the marketplace participants react to those characteristics.**

  The first step in the research process is to completely and accurately identify and (if necessary to meet the requirements of the intended use of the report) authenticate the subject property or have it authenticated by an expert.[485]

  Through identification, the presence or absence of relevant characteristics are determined. Identifying the relevant characteristics of a subject property allows it to be value ranked among comparable properties having identical or similar characteristics. Subject properties having a greater abundance of positive value characteristics can be assumed to be of greater value than comparable properties which have less of such characteristics. Conversely, subject properties having a greater number of negative value characteristics can be assumed to be of less value than comparable properties having fewer of such characteristics. In the U.S. an 18th century American mahogany Chippendale side chair is of greater value than an English example from the same period (all else being equal) because in America the relevant attribute of being American in origin outweighs that of being English.

  Be sure to review USPAP's AO-2 *Inspection of Property* for a detailed discussion of issues relating to identification of the subject property and its relevant property characteristics. AO-2 also discusses physical inspections which, by the way, USPAP does not require be done by the appraiser. (USPAP does not require personal inspections by the appraiser, but it **does** require the property and its characteristics to be **identified** by the appraiser. There are alternative ways for the appraiser to obtain the information

[485] The topic of identification and authentication was covered earlier in this book in Chapter 6. Also, see the sections entitled *Personal Inspections* in Chapter 1 and *Inspection vs. Non-Inspection* in Chapter 3 for related discussions.

needed to "identify" the property and its relevant property characteristics, other than by personal inspection.)

- **Step 2: Identifying the most appropriate market, market level, and buyers and sellers within that market.**

  Appraisers typically explore one of four levels of trade during the research phase of the appraisal process:

  - Retail market
  - Wholesale market
  - Orderly liquidation market
  - Forced liquidation market

  Since personal property is portable, it is often sold within different levels of trade, and at different price points (i.e., at different market levels) within each level of trade. There are many examples of market levels for each of the above levels of trade. Some market levels are "cross-overs", i.e., the market level could be an example of more than one type of level of trade depending on the situation.

  - A consignment shop market level could be an example of a retail level of trade if an item is sold to a collector. On the other hand, it could also be viewed as a wholesale level of trade if a sale was made to a dealer who is intent on reselling the item at a higher price.
  - An auction sale could be an example of all four levels of trade depending on the identity of the buyer (e.g., retail customer or wholesale buyer) and on the urgency to sell (e.g., a forced liquidation or an orderly liquidation).

  The intended use of the appraisal, the purpose of the appraisal, and possibly national or regional laws and regulations or user mandates will dictate the marketplace the appraiser should explore when conducting research. As indicated earlier, IRS and Treasury regulations require the use fair market value and of the **most common market** in which sales are made to the end consumer for tax-related appraisals such as donation or estate. For such intended uses, it is up to the appraiser to identify the market that is "most common" for the particular item in question.

  The choice of the most appropriate market (i.e., level of trade and market level) to explore will also hinge on the following characteristics of the subject property itself:

  - **Condition of the property**. An item in poor condition might best be sold at a yard sale while one in good condition should be placed on consignment in a high-end antiques shop or sold at a regional auction house.
  - **Quantity of items**. Large numbers of items are often sold to the wholesale market, while individual items can be sold at retail. This is often dependent on

the amount of effort the seller wishes to put forth.

- **Quality of the items**. Items of high quality can be sold in well-advertised sales by national auction houses. Low quality items are often disposed of at local auctions or yard sales.

- **Urgency to sell**. The more time allowed for the sale, the greater the opportunity to prepare the property for sale, to advertise it, to reach would-be buyers including via the Internet, and to allow for proper inspection and transportation after the sale.

- **Step 3: Locating market data from within the most appropriate market on which to base value conclusions.**

  Opinions of value are not guesses, but rather they are informed opinions based on facts gathered from within the most appropriate marketplace. Such information is collectively referred to as **market data**, and it forms the foundation which supports the appraiser's arguments.

  Examples of market data include:

  - Past sales prices of comparable properties.

  - Prices being asked by sellers of new or comparable items, i.e., replacements costs (new or comparable), reproduction costs, and production costs.

  - A sale listing (not merely an offer to buy) of the subject property (if relevant)

  - Original purchase price of the subject property (if relevant)

  - Pending sale of a comparable property (unless the information is confidential)

  - Past sale prices of the subject property itself (if within a reasonable time)

  - General issues such as the condition of the market (i.e., rising, falling, or stable), who the buyers and sellers are (i.e., does your client have access to a particular marketplace being considered?), trends and fads, the frequency of transactions, etc.

  The appraiser first gathers market data by researching the appropriate market in order to identify similar properties that have been sold, that are being offered for sale, or that are available by reproduction/production. The appraiser considers any payment terms, warranties or guarantees, or other motivating factors surrounding those transactions found which might have influenced the transactions. Aberrations or anomalies in the marketplace should be noted but not used as they do not represent typical marketplace transactions. In other words, discard the highs and the lows.

  Quality and condition of the comparable property are critical and should be given very special consideration. This is often the most overlooked criteria in selecting comparable sales. Do not automatically accept what appears to be a suitable comparable in a price

guide or auction catalog or online without first verifying the comparable property's condition and quality—preferably by firsthand examination. Do not rely completely on price guide or auction catalog or on online photographs as they are frequently deceptive in appearance. When in doubt (and only if warranted), contact the auction house (or other data source) directly as they may be able to provide more detailed photographs and/or condition information about the comparable property you are researching.

The appraiser must also compare general conditions of the sale of the comparable property to ensure the comparable sale meets the criteria mandated by the assignment:

- For tax liability appraisals (which require the use of fair market value), comparable sales upon which values are based must employ the market perspective; accordingly, comparable sales must come from markets in which neither the buyer nor seller were under compulsion to buy or sell, and in which both buyer and seller had knowledgeable of all the relevant facts. Comparable sales data should not, therefore, be obtained from the forced liquidation market when one is seeking fair market value.

- Insurance appraisals, on the other hand, employ the user perspective. The market researched must be one in which the client (i.e., the "user") can procure a replacement property within a reasonable amount of time, and not one in which a better price might be obtained but only if one were to wait a prohibitive length of time. In addition, the chosen market to be explored should be one in which the insured customarily shops.

The appraiser must also take into consideration the location of the comparable property. The principle of highest and best use requires (all else being equal) consideration of the most lucrative market in which the subject property could be sold. This most lucrative market might be geographically distant from the location of the subject property, but personal property is typically easily transportable, so the physical location of the subject property often makes little difference. The property could be shipped to a national or international auction house, if necessary, in order to achieve the highest price.

The corollary is that comparable sales must not automatically be chosen strictly from local markets, but from the most appropriate market which would reflect the highest and best use of the subject property.

- **Step 4: Analyze data, adjust comparable sales data for differences in relevant property characteristics between the subject property and the comparable property, and for changes in the market over time.**

  Market Data Analysis

  Once gathered, the market data must be analyzed. By organizing the data in a meaningful way, inconsistent values and other aberrations are detected and can be discarded. But they should be discarded only after it has been determined that they are, indeed, anomalies, and are not, in reality, a useful reflection on the market, on conditions surrounding the sale, or on the condition of the property itself. If otherwise, the data should be incorporated into the analysis rather than being discarded.

The larger the number of market data observations, the easier it is to apply methods of statistical analysis in order to arrive at a conclusion of value. When there are large numbers of observations each with well-described and **varying** value characteristics, value ranking can be employed to determine value. But when there is **little difference** among the relevant characteristics of the comparable properties, a simple average of the observations will usually suffice to conclude a representative value.

Note, though, that in a perfect world the appraiser would be able to locate more than enough comparable sales to use as a basis on which to develop an opinion of value. But in the real world, that may not always be the case. While comparable sales abound for one carat diamonds or mass-produced depreciable property, the same cannot be said for rare antiques, collectibles, fine art or other types of appreciable property. In the case of the latter examples, the appraiser would be fortunate, indeed, to find two or three comparable sales, but might sometimes find only one!

Adjusting for Differences

Once comparable sales have been located, it may be necessary to adjust the values found to reflect differences in value characteristics between the comparable property and the subject property. It may also be necessary to make adjustments to account for differences in market conditions between the time of the comparable sale and the effective date of the ongoing appraisal.

- **Differences in Relevant Characteristics**. Regarding relevant characteristics of property, adjustments are frequently necessary to account for differences especially for unique art or antiques which by definition differ from any possible comparable property. Consider a comparable property containing an important value characteristic that recently sold for $2,000 within the appropriate marketplace. If the subject property did not contain the same value characteristic or contained it to a lesser degree, then it could be safely argued that the subject property was not as valuable as the comparable property. Accordingly, to arrive at a value for the subject property, the $2,000 realized for the comparable property must be adjusted downward to reflect the lower ranking of the subject property. Often this is accomplished through the use of value ranking.

  Value ranking. Whether done intentionally or not, value ranking is a common practice with personal property. Grading scales are frequently used to assign relative grades of quality and condition to everything from Barbie dolls and baseball cards to comic books and special interest automobiles. The higher the assigned “grade” the more valuable is the item of property.[486]

- **Differences in Market Conditions**. Values of the comparable properties should also be adjusted to recognize changes within the market between the time the market data was obtained and the effective date of the appraisal. Market data should be obtained close to the effective date of the appraisal, but that is not always possible. On occasion, viable comparable sales are located at a point in time that is distant from the appraisal's effective date. If there has been no change to the market over that span of time, then no adjustment in value is necessary.

[486] See the section entitled *Value Ranking* in Chapter 5.

However, if the market demand for the property has increased (or declined) over that period of time, value adjustments would be expected to be made to reflect that change in market conditions.

Research Resources

Today's appraiser is blessed with broad choices for conducting research—both for researching identification as well as value. Books and periodicals, price guides, the Internet, museums (including online collections), university and public libraries, etc. are all rich sources for assistance in researching values and in property identification. Networking with other appraisers, experts, specialist auctioneers, dealers and collectors, grading services such for stamps and coins, etc. are other important resources by which the modern appraiser conducts research.

Books and Periodicals

Staying abreast of changing market conditions and market data is a never-ending effort for the personal property appraiser. Whether looking at price tags as you wander about the mall or antique show, studying **post-sale auction prices**, or pouring over the latest value guides or relevant online website databases and auction records, keeping current with fluctuating values is a constant process.

Today an appraiser's research effort is facilitated by a plethora of **periodicals**, **collector club newsletters**, **identification books**, **auction catalogs**, **price guides**, and, of course, **online Internet resources** that specialize in nearly any category of antiques, art and collectible imaginable. It is imperative that the personal property appraiser continually observe the marketplace and purchase those resources deemed necessary within the appraiser's specialty area. To keep up with the ever-changing market, the appraiser must also subscribe to **periodicals** which typically offer the most current information available regarding the marketplace including news and events that shape it. Commit to subscribing to periodicals and to building a library of books, price guides, auction catalogs, etc.

A Word About Price Guides

Price guides, both in printed as well as electronic and online form, are a very convenient source of values. But there are many problems in relying on them exclusively. Because some printed price guides make use of asking/selling prices found at antiques shows and malls, they are normally best for establishing an object’s worth at the retail level. They should be used as guides for a buyer trying to determine how much to pay for an item rather than by a seller wondering how much to ask for an item. For the appraiser, printed price guides making use of only retail selling prices are useful for determining replacement value, but are of little help when researching other types of value.

For antiques and collectibles, there are generally two types of printed price guides—those covering a myriad of categories (with prices but often with little descriptive information) and those in which the author covers a specific category of antiques or collectibles, often including voluminous historical and item descriptive information in addition to values. This latter category of price guide is normally the most helpful to the researcher since they are written by specialist authors who have made the effort to cover a single category or perhaps a very narrow segment of a field. It stands to reason that the accompanying prices will also be more focused and more accurate.

When using printed price guides, the appraiser should ask several questions:

- Are the prices listed in the guide actual sales results, dealer asking prices or merely the unsubstantiated opinions of the author?

- Are items described completely including with damage noted? Or is condition excluded and descriptions meager?

- When was the guide written? Data is often gathered as much as two years before the printed price guide is available for purchase. Even though possibly being out-of-date, price guides can continue to be useful by being indicators of market trends. They are also useful as informative inventories of what items actually exist.

- Is the price guide written by a single individual intent on manipulating the market by hyping the value of items in his or her private collection to their financial advantage?

- Is the guide a collaboration of many experts and dealers offering their consensus of value based on their collective years of experience coupled with their vast product and market knowledge, or does it represent only one person's opinion of value?

- Prices realized on the Internet raise serious questions about the validity of the traditional standard of basing printed price guide listings on asking prices found in antique malls or at antiques shows. With the impact that the Internet is having on today's marketplace, a printed price guide that does not take the realities of Internet pricing into consideration is of limited value.

Internet Search Tools

The Internet is a vast global supermarket of information. With billions of documents available and growing rapidly, sources exist on the Web that provide answers to almost any type of question. Some contend that "If the information cannot be found in the Internet, it does not exist." I disagree. Over the years, a vast amount of valuable research information has found its way into books and periodicals and has yet to find its way onto the Internet. And what information that has is often buried in the sheer volume of information available on the Web. Relying solely on the use of the Internet to conduct research to the exclusion of a well-developed library of resources specific to your area of interest will often result in limited success. Having said that, the Internet plays a very important part in our research efforts—particularly in documenting market data. But in a "store" this big, how do you ever find what you are looking for? Your success depends on choosing the right Internet search tool and using it effectively.



Caution: Before we proceed, some words of caution are in order regarding making use of online databases as a source for comparable sales:

- The credibility of any analysis that incorporates output from online databases is dependent on the quality of the data in that database and on the appraiser making use of only that data which are relevant to the assignment at hand. Does the source compile dealer asking prices? Auction sales results? Are sales from the client's locale or are they comparisons from a different region of the country or from a foreign country?

- As in all comparable sales, those found in an online database may be credible comparisons but only if the analysis takes into consideration differences between the comparable property and the subject property. Before using such data as a point of reference, it is the appraiser's responsibility to determine if the sales data is comparable as-is, or if some value adjustments are necessary to account for differences in relevant characteristics between the comparable property and the subject property.

- Resource data located on the Internet is **ephemeral**. It is here today but might very well be gone tomorrow. When you locate and make use of Internet resource information, be sure to print it out and store it in your assignment workfile. You may also wish to "print" the page to your hard drive as a PDF file. Failure to preserve the information in some fashion may cause difficulties should your testimony at deposition or in trial be required at some point in the future. It is entirely possible that by then the online resource information on which you based your opinions will have been altered or even removed entirely from the Internet. Should that occur, when testifying, you will be unable to produce the resource evidence upon which you based your opinions.

There are two basic types of Web search tools with which you should become familiar:

- **Web Index** (also known as a "**search engine**") is a tool that uses special software programs (called robots, spiders or crawlers) to find web pages and "index" or list all the words within each page. Indexes capture the largest amount of information on the Web, but no Index lists everything on the Web. A well-known example of Web Index is Google™ at google.com.

- **Specialized Databases** are the smallest, most focused tool, where information is usually limited to a specific topic but is provided in-depth. Using a specialized database is like finding a good reference book in the library that covers your research topic in detail. Use a specialized database to locate specific, factual information. They are sometimes called the "Invisible Web" because they contain information that is not listed in Web Directories or Web Indexes—you must search them directly. For example, the Internet Movie Database (IMDb)™ is a popular site that provides factual information about movies, actors and filmography. It's the quickest way to find out about the cast or find a plot summary of a particular movie. IMDb is located at imdb.com.

  Several art, antiques and collectibles related specialized databases exist such as the following, some of which are auction sale price aggregators, i.e., platforms presenting completed sales results from scores of auction houses on a single site:

  - Proxibid® at proxibid.com
  - 1stdibs® at 1stdibs.com
  - Price4Antiques™ at p4a.com
  - iCollector® at icollector.com
  - PriceMiner® at priceminer.com
  - Barneby's™ at barnebys.com
  - Invaluable™ at invaluable.com
  - Worthpoint® at worthpoint.com
  - Antique Clocks Identification and Price Guide® at antiqueclockspriceguide.com

  - ArtPrice® at artprice.com, Art Brokerage at artbrokerage.com, AskArt® at askart.com, Gordon's and Blouin Art Sales Index® at gordonsart.com, and ArtNet® at artnet.com focus on art
  - AddAll® at addall.com, the Antiquarian Booksellers Assoc. of America at abaa.com, Biblio® at biblio.com, Rare Book Hub at rarebookhub.com, and AbeBooks® at abebooks.com focus on books
  - Kelly Blue Book® at kbb.com, NADA Guides® at nadaguides.com, and Edmunds® at edmunds.com focus on cars
  - KitCo at kitco.com, PCGS Coin Price Guide at pcgs.com, Coin World at coinworld.com, and CoinTrackers at cointrackers.com focus on coins

Other online pricing and identification resources for the personal property appraiser can be found at:

- **Online Auction Sites.** These are a popular source for obtaining realized sales prices for items sold via online auction. Millions of transactions occur daily. The most popular such site is eBay® at ebay.com. While easy to research, one should not rely on such sites to the exclusion of other sources of market data.

  The price something sells for in an online auction venue tells you not what the item is worth, but rather what a select number of people (out of millions) who happened to randomly see that particular item that week felt like paying for it. A broader search covering a longer period of time would result in a more realistic representation of value.

  Note that the online environment itself can affect value. Poor seller feedback will negatively affect the price for which that particular party will be able to sell an item. The quality of the auction (clear pictures, well-written descriptions, disclosure of shipping charges, etc.) will also impact on selling price.

  When researching online auctions, in addition to searching auctions that are still ongoing and have yet to terminate, you normally have the option of also searching only **completed** sales. While ongoing "Buy It Now" listings might reflect bona-fide replacement costs, be sure that you are searching the archive of **completed** sales if you are looking for a basis on which to develop opinions of fair market value.

  Other such sites include:

  - LiveAuctioneers® at liveauctioneers.com
  - Heritage Auctions® at ha.com
  - Auction Zip® at auctionzip.com

- **Traditional Auction Houses.** These sites often maintain an online database of past sales—most with photos and descriptions in addition to prices realized. Examples include:

  - Jackson's International Auctioneers & Appraisers at jacksonsauction.com
  - Eldred's Auction at eldreds.com
  - Skinner's Auction at skinnerinc.com
  - Sotheby's Auction at sothebys.com

    - Christie's Auction at christies.com

- **Trade Periodicals.** Some periodicals such as *Maine Antiques Digest* at maineantiquedigest.com maintain an online price database complete with images, prices and descriptions of items featured in past articles.

Online Stores offer easily-searchable databases of thousands of dealers' offerings. Such online stores exist for all sorts of personal property. Some specialize in gems and jewelry, art, books, or antique toy trains, but some are "group shops" containing the inventory for hundreds of dealers under one roof. Others, such as Craigslist, are classifieds offering all manner of clothing, household goods and other types of personal property for sale. Examples of online stores include:

- TIAS™ at tias.com
- GoAntiques™ at goantiques.com
- Ruby Lane® at rubylane.com
- Craigslist® at craigslist.com
- Trocadero® at trocadero.com

Despite the ease of use, caution must be exercised in using any value reference source, be it a printed price guide or an online website. Ensure that the comparable property is, indeed, comparable. Pay particular attention to authenticity and condition—two value characteristics often ignored or only tangentially addressed by reference resources.

Along this vein, be particularly skeptical of comparable market data obtained from online auctions in which specious property types (such as "fine art") are known to be frequently misrepresented, bought and sold.

Field Work

In addition to maintaining a personal library, reading the current literature and making use of the Internet effectively, the professional appraiser is obligated to keeping current with ever-changing markets by being observant of the marketplace firsthand whenever the opportunity presents itself. The appraiser must regularly visit retail establishments, auctions, shows and exhibitions, and estate sales to research value and observe market activity. Attending museum exhibits, conferences, gallery and trade shows, and seminars and lectures will not only increase the appraiser's knowledge base, but it will also increase his or her professional profile and visibility within the field.

Museums and Libraries

Museum curators are often helpful in identifying and authenticating property, but they are prohibited by their code of ethics from discussing values. University study collections often offer the researcher access to experts and property not normally available to the general public. Public libraries offer an abundance of books and other printed resources to assist in identifying property being appraised.

Museums Online: Museum Internet websites offer a wealth of descriptive information for all types of objects. Containing images as well as descriptions that oftentimes include the history and provenance associated with the item, "e-museums" are an ideal source to help identify items as well as to learn accepted descriptive techniques. Examples include:

- Phoenix Art Museum at egallery.phxart.org
- American Folk-Art Museum at collection.folkartmuseum.org
- Collection of Historical Scientific Instruments at Harvard University at waywiser.fas.harvard.edu/
- Smithsonian at si.edu/museums
- The Ringling Museum at emuseum.ringling.org/emuseum/
- The Nasher Museum of Art at Duke University at emuseum.nasher.duke.edu/
- The Bowers Museum at bowers.org/collections/
- Center for Creative Photography at ccp-emuseum.catnet.arizona.edu/
- National Museum of American History at americanhistory.si.edu/collections
- British Museum at britishmuseum.org/research/collection_online/search.aspx
- Brooklyn Museum at brooklynmuseum.org/opencollection/collections

Auction Houses

Auction houses are good sources for opinions of value and authenticity that are based upon the auction house experts' extensive knowledge, training and past experience in examining property. Use caution and discretion, though, as it is the auctioneers' legitimate job to manipulate markets to advance their client's and their own financial gain. Auction house staff members may have the necessary qualifications to authenticate a property, but, if retained, you must insist that they follow recognized procedures and methodology. Auction houses are not required to function under the stringent requirements of appraisers and authenticators, i.e., they **can** act as advocates. Be prepared to pay for authentication services rendered by auction house experts.

Specialist Dealers

Dealers have somewhat unrestricted operating conditions similar to auctioneers. Their ability to impartially consult may be affected by this lack of restriction. They may be less reliable since their function often includes the tendency to manipulate markets and, therefore, maintain and/or develop markets. Some dealers have also been known to place greater significance on items they carry in stock, for obvious reasons. Despite this, dealers may very well be your strongest source for authentication. A dealer who is known for working within specialized areas of property may be in the best position to offer a scholarly opinion.

Dealers and auction houses typically do not reveal the names of buyers, but they may be able to indicate whether the property was sold to a collector or to the trade. In addition, such sources can provide valuable insight regarding the state of the market including trends and recent events that might impact the property type that you are researching. Be prepared to pay for services rendered by dealers.

Authors, Editors and Collector Clubs

Authors (not only of specialty collector books and price guides but also of specialty Internet websites), collectors' clubs and the editorial staff of specialty collector periodicals are excellent sources of information regarding identification issues as well as values. They are often on the cutting edge of marketplace issues (such as what's hot or the appearance of a heretofore unknown reproduction) which might have relevancy to the appraiser's research. If they themselves are not knowledgeable, chances are they know of someone within their specialty area who is. Always ask if there are charges associated with the services you are requesting of authors, editors, or collector club staff or volunteers.

Networking with Colleagues

No matter the size of one's personal library, the nearness of a public library or other research facility, or the ease of searching the Internet and computerized databases, there is often no substitute for consulting with a specialist appraiser who is already familiar with the appraisal process or consulting with a known expert in the particular specialty field. Be prepared to pay other appraisers and experts for services rendered.

- Collaborating with specialist appraisers or experts in a specialty field is beneficial in that it allows opinions to be shared, judgments to be combined, and, often, collaboration helps complete an assignment in a timelier fashion.

- Collaboration with a specialist appraiser who is knowledgeable in an area you are not allows you to undertake a broader range of appraisal assignments while at the same time increasing your personal knowledge base. It is also one of the steps you could take to ensure competency when you accept assignments containing types of property that are outside your specialty areas.

- In addition to other appraisers, another method the appraiser can take to ensure competency is through consultation with experts. Sources for finding experts include specialty museums/libraries, authenticators, dealers, clubs, periodicals, auction house experts, repair/restoration/conservation specialists, etc. Also, do not hesitate to ask other appraisers for a referral to an expert.

Additional Sources of Research Information

In addition to the popular research resources listed above, less familiar sources should also be explored including:

- The clients themselves who might be able to provide such information as:
    - Old appraisals
    - Purchase receipts
    - When it was purchased, or documentation as to its identity
    - Eyewitness accounts such as witnessing the item being made
    - Family letters, diaries, inventories, receipts, invoices or cancelled checks relating to the item
    - Photographs of the property
    - Laboratory reports or letters from experts confirming its authenticity
    - Condition reports from restorers or conservators
    - Grading reports

- If possible, direct contact with the artist/maker

- The dealer from whom the client purchased the item

- An earlier appraiser who had inspected the item at the time of a previous appraisal

- A repair person or restoration specialist who had worked on the item

A Word About Stolen Art

Pertaining to ownership, research might reveal the unexpected. The ownership of many valuable works of art has become questionable because of how it came to be acquired the current or previous owners. Some items might have been obtained through outright theft, while others might have been spoils of war. Some might have been taken in the process of colonization, some as bounty and others by treasure hunters.

At times, while performing their due diligence appraisers (or the authenticators they retain) may encounter an object for which title is in question, i.e., it might appear to be stolen property. Such issues and what the confidentiality, legal and moral responsibilities are of appraisers who become aware that the subject item might be or is stolen property is beyond the scope of this work. Regardless, there are several online resources the appraiser can research to help determine whether or not an item is known to be stolen property. Such research would be an indication that the appraiser performed due diligence during the appraisal process. Resources include:

- International Foundation for Art Research (IFAR) at ifar.org
    - IFAR Provenance Guide ifar.org/Provenance_Guide.pdf (includes numerous art historical resources for researching provenance)
- Art Loss Register at artloss.com
- FBI Art Theft Program at fbi.gov/investigate/violent-crime/art-theft
- Looted Art at lootedart.com

Reporting a Suspect Client to Authorities

The USPAP publication addresses a related issue—informing on a client—regarding a coin dealer who, upon recognizing coins and currency that he is being asked to appraiser are counterfeit, is legally bound to notify the authorities about the counterfeits including identifying the client's name and contact information. Would disclosing the identity of the client violate the confidentiality requirements of USPAP?

No. As noted in the Confidentiality section of USPAP's ETHICS RULE, it is not a violation of USPAP to disclose the identity of the client (even if the appraiser had agreed to keep the identity of the client confidential) when disclosing to such “third-parties as may be authorized by due process of law.” (2020-2021 USPAP FAQ #54)[487]

More Than One Appraiser

Some assignments will involve the assistance of another **appraiser** or of a **non-appraiser** expert or consultant. Assistance could range from offering advice, guidance and opinions to conducting

[487] See the Chapter 13 section entitled *Having Good Title* for a related discussion.

research or providing authentication, grading or technical reports. In addition, other appraisers might even render their own opinions of value, i.e., an "appraisal."[488]

Examples of typical scenarios in which assistance from other **appraisers** might be encountered when performing an assignment include:

- Two appraisers with similar areas of expertise working together as equals
- A specialist appraiser contributing to an assignment from within his or her respective specialty areas such as a fine art appraiser valuing the paintings and a gemologist appraiser valuing the jewelry (with a generalist appraising the balance of the property)
- A staff appraiser whose work is reviewed by a senior appraiser
- A trainee appraiser under the supervision of another appraiser
- An independent appraiser working under contract to an appraisal management company
- Two or more appraisers from different disciplines working together on the same assignment (e.g., a real property appraiser valuing the real estate while a personal property appraiser values the chattels)

A **non-appraiser expert** might also be called upon to provide input necessary for the appraiser to complete the assignment. An example would be an expert's report of authenticity attesting to his or her opinion that the painting being appraised is genuine; or a gemological laboratory's grading report on the carat, color, clarity and cut of an important diamond.

Documenting Assistance

Assistance provided by others should be documented and at times must even be described in the appraisal report. All records of assistance provided by others (along with copies of any of their accompanying reports) should be maintained in the assignment workfile.

Assistance provided by appraiser

- When another **appraiser** provides assistance deemed to be **significant**, you must identify the appraiser in the USPAP certification and also describe the assistance that was provided to you within the appraisal report.
- If the appraiser's assistance was **not deemed significant**, there is no need to identify the appraiser in the certification or to describe the assistance provided in the report. But I would suggest that the assistance provided be documented in the assignment workfile, nonetheless, as it helps to demonstrate your due diligence.

[488] There are other discussions regarding assistance provided by other appraisers and specialists in the Chapter 3 section entitled *Relying on Information Provided by Others*, in the Chapter 5 section entitled *Using Specialist Appraisers and Other Colleagues* and in the Chapter 7 section entitled *Assignments Involving Assistance from Others*.

Assistance provided by non-appraiser

- When a **non-appraiser** provides **significant** assistance, their assistance should be described the appraisal report, but (since they are not appraisers) they should not be identified in the USPAP certification since USPAP pertains only to appraisers, i.e., to individuals having appraisal competency.

- If the non-appraiser's assistance was **not deemed significant**, it need not be documented in the report, but I would suggest that the assistance at least be documented in the workfile, as it helps to demonstrate your due diligence.

Appraiser Confident When Relying on Work Provided by Others

The signing appraiser must have confidence that those providing input (including appraisers as well as non-appraisers) are competent and must have no reason to doubt that their work is credible.

USPAP SR 8-3(c) states:



(c) When a signing appraiser has relied on work done by appraisers and others who do not sign the certification, the signing appraiser is responsible for the decision to rely on their work.

(i) The signing appraiser is required to have a reasonable basis for believing that those individuals performing the work are competent; and

(ii) The signing appraiser must have no reason to doubt that the work of those individuals is credible.

Additional guidance regarding reliance on others is provided by 2020-2021 USPAP FAQ #285:[489]

In deciding that the work of the [assisting appraiser] is competent, the [signing] appraiser might note such things as the other appraiser's:

- *declaration in a signed certification that the analysis, opinions and conclusions were developed, and the report was prepared, in conformance with USPAP;*

- *relevant experience, education, or references; or*

- *evidence of professional status, such as license, professional designation, or other recognition of professional or academic achievement*

[489] See the Chapter 3 section entitled *Relying on Information Provided by Others,* the Chapter 5 section entitled *Contingent Appraisals* and the Chapter 7 section entitled *Assignments Involving Assistance from Others* for related discussions.

Supplemental reading:

- USPAP Advisory Opinion 31 *Assignments Involving More than One Appraiser*

Documenting Resource Evidence

The appraisal assignment workfile will often contain a list of the **research resources** that the appraiser made use of during the course of the appraisal assignment. On occasion, this resource evidence may need to be documented within the appraisal report itself. Such an instance might occur when preparing a fully-narrative Appraisal Report for litigation, or when the appraiser desires to impress upon the reader (such as an opposing attorney) the breadth and width of the appraiser's research efforts.

Included within the documented resource evidence might be:

- A bibliography of articles, books, price guides, auction catalogs, Internet resources, etc. that were used as sources of information.

- Copies of relevant bibliographic information referencing comparable properties on which the appraiser’s opinions or conclusions were based such as photocopies of auction catalogs or printouts of Internet websites.

- Photocopies of relevant supportive documentation such as the results received from authentication, testing or grading services.

- When other appraisers provided significant professional personal property appraisal assistance to the primary appraiser:

    - Any reports or appraisals they generated for your use with the assignment

    - Notes about verbal discussions held with them or containing any opinions they offered

    - Copies of emails associated with services they rendered

    - Their identities, professional profiles and contact information

- Fine art appraisals might include the artist's chronology. Chronologies provide context to assist readers to better understand the object's relationship to events of the period in which it was created and which place the object in the correct period of the creator's life. Chronologies should include important events and dates such as the creator's birth and death dates, education, travel, writings, exhibitions and museum showings.

- Fine art appraisals might also include exhibition, sales and catalogue raisonné entries which often provide valuable research data such as the name or the creator, the title and location of the work, medium, support, dimensions, provenance, exhibitions, bibliographical citations in literature, illustrations in literature, restoration information, etc.

Reference resources are recorded in the assignment workfile. They can also be compiled and presented as an enclosure to the appraisal report if need be.

USPAP Does Not Dictate Amount of Research

The amount of research and analysis required to be performed by the appraiser is addressed in Standards Rule 7-4 *Approaches to Value* which states:

> *In developing a personal property appraisal, an appraiser must collect, verify, and analyze all information necessary for credible assignment results.*

In other words, enough research must be performed so that **whatever** opinion of value that is **eventually** developed is worthy of belief.

Not every item needs the same amount of research. SR 7-4(e) recognizes that when undertaking a multi-item appraisal assignment, more research effort should be applied to the more valuable items since they would have a greater impact on the assignment results:

> *When appraising multiple objects, the appraiser must consider the significance of the value of the individual assets to the assignment results. Those objects which are more significant to the assignment results should be the focus of the analysis and analyzed in appropriate detail.*
>
> *Comment: A group of objects may have a mix of high and low value items. Those objects that are more significant to the assignment results should be subject to a greater and appropriate depth of analysis.*

Nor is there any USPAP mandate that research must be completed for each and every object. As noted in the below section of this Chapter entitled *Research: Always Required?,* assuming the appraiser has the requisite knowledge and experience and that the intended use permits, research is seldom performed for nominally-valued items such as common household kitchen utensils, every day hand tools, or most used clothing.

What happens if, in the course of such a "no-research" assignment, the appraiser encounters an item about which he feels he lacks the competency to appraise? In such an instance, the appraiser would decline to value the object in question unless the appraiser were to receive the client's permission to expand the scope of work in order to be able to conduct the necessary research or to take other steps (such as retaining the services of an expert) to ensure that the assignment is performed competently.[490]

Research: Always Required?

While it is true that the weight given to an appraiser's value conclusion is based on evidence on which that opinion is based, is it **always** necessary that research be conducted in order to obtain that evidence?

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[490] For guidelines regarding assignments or properties about which the appraiser is not competent, see the Chapter 7 section entitled *COMPETENCY RULE.*

There are a limited number of intended uses of appraisals in which the appraiser, if properly qualified and competent to do so, may be able to develop a credible opinion of value without having to conduct research to confirm that opinion. Those uses mostly involve the development of value opinions of nominally-valued property that are reported either orally or in a written report. Such opinions of value will be based not on research but rather on the appraiser's considerable knowledge and experience with the subject property type, and his or her past personal observations of relevant market activity.

While most appraisal reports contain value opinions that are based on research, there is a demand for oral appraisal reports (especially for objects of nominal value) which can be developed without the need for the appraiser spending time and expense conducting research. Frequently, the value of an item is too minimal to justify a costly, formally-written, fully-researched appraisal (no sense conducting $10 worth of research for a $5 item). In such cases, oral appraisal reports, when done competently, help clients to properly exercise their due diligence and prevent costly mistakes (such as by paying too much or selling for too little). They also provide clients with a cost-effective way to benefit from the appraiser's existing knowledge base.

By limiting the appraiser's scope of work with such a restrictive assignment condition as "Conduct no value-confirming research," the client is taking a risk that the appraiser's opinion might be in error if no confirming research is performed. But for oral appraisals of items having nominal value, clients are frequently willing to accept risks associated with there being no confirming research in order to gain the benefit of reduced cost assuming that the client is confident that the appraiser has the knowledge and experience to perform such an appraisal in a manner that will yield credible assignment results in light of the intended use of the report.

"No-Research" Appraisal Assignments

The above type of assignment incorporates a limiting condition (no research). Let's review the significant milestones which reflect some of the important issues that appraisers should be considering as they progress through this type of appraisal assignment.

Consider an appraisal assignment in which the client intends to minimize costs and/or the time required to complete the assignment by prohibiting the appraiser who is performing an oral appraisal from performing any confirming research on nominally-valued items:

- The appraiser begins the process by first determining that he is **competent** to accept the assignment. This determination cannot be made until the appraiser first properly **identifies the appraisal problem** and **determines the scope of work** that will be required in order to develop **credible assignment results**.

- The appraiser then identifies any relevant **assignment conditions** which, in this case, involve a requirement that no research be performed on items of nominal value.

- The appraiser determines that he is sufficiently familiar with the nominally-valued subject property and its relevant market to be capable of rendering credible opinions of value orally without undertaking off-site confirming research. He bases this determination on his considerable knowledge and experience regarding the subject property and on his past personal observations of relevant market-related activity. The appraiser then proceeds to comply with:

- Appraisal development requirements of STANDARD 7 *Personal Property Appraisal, Development*,

- Appraisal reporting requirements of STANDARD 8 *Personal Property Appraisal, Reporting* as applicable to oral reports (see SR 8-4 *Oral Appraisal Report)*, and

- The requirements of the RECORD KEEPING RULE as applicable to oral appraisal reports including, but not limited to, adding a written summary of oral reports to the workfile within a "reasonable time" after issuing an oral report

Supplemental reading:

- USPAP RECORD KEEPING RULE
- USPAP STANDARD 7 *Personal Property Appraisal, Development*
- USPAP STANDARD 8 *Personal Property Appraisal, Reporting*

Chapter 10: Describing Property

In addition to developing an opinion of value, an important part of any appraisal report is the appraiser's **description** of the property involved.[491]

Recall that STANDARD 8 *Personal Property Appraisal, Reporting* requires the appraiser to include in the appraisal report sufficient information to **identify** the subject property and its relevant characteristics. The content and level of detail of the description will depend on whether the appraisal makes use of the Appraisal Report or the Restricted Appraisal Report option.

- If using the Appraisal Report option, the appraiser must **summarize** information sufficient to identify the property including its relevant characteristics.[492]

- But if using the Restricted Appraisal Report option, the appraiser needs merely **state** information sufficient to identify the property being appraised. Note that descriptions in Restricted Appraisal Reports need not even address the property's relevant characteristics. For a Restricted Appraisal Report, all that is required is that the identity of the property be **stated** but not summarized. This is a minimum standard—the appraiser can supply additional information if deemed helpful in making the report more meaningful.

Supplemental reading:

- USPAP Advisory Opinion 2 *Inspection of Subject Property*

The description not only documents the property (or at a minimum, the property "type") by giving it a noun name, but the description can also document the relevant characteristics (i.e., quality characteristics, economic characteristics and physical characteristics) upon which an opinion of value will be based. Both are critical in order for the client and other intended users to properly understand the nature of the property being appraised as well as the basis on which the appraiser's opinions, analyses or conclusions were formed. Furthermore, a detailed description of the property and its relevant characteristics allows readers of the appraisal to use their own judgment when gauging the credibility of the appraiser's conclusions. A proper identification and related description will:

- Document the existence of relevant property characteristics which act as a basis for the choice of comparable properties and which act as a basis for relative value **ranking** (discussed earlier).

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[491] For related discussions see the Chapter 3 section entitled *Inspection vs. Non*-Inspection, the Chapter 5 section entitled *Value Creators and Relevant Characteristics*, and the Chapter 6 section entitled *Identification*.

[492] The Appraisal Report option requires that the appraiser expand the presentation of certain other content, as well, to whatever extent is required by the intended use of the report and the informational needs of the client and other intended users, if any. See the Chapter 11 section entitled *Required Content When Using the "Appraisal Report" Option* for a related discussion regarding other information that must be summarized rather than simply stated.

- Document and inform the reader of the property's relevant characteristics as understood and as used by the appraiser in arriving at his or her value conclusions.

- Serve as a basis for insurance underwriters to assign premiums.

- Prevent the misuse of the appraisal by someone intent on fraudulently representing that a less valuable substitute property is the property described in the appraisal.

- Document relevant characteristics, traits or marks that could eventually be the basis for proving genuineness or lack thereof.

- Help identify the subject property if it is stolen and subsequently recovered by authorities. Insufficient proof of ownership in the way of a clear and complete description will hamper attempts by a rightful owner to lay claim to recovered property. The description methodology found in this book incorporates the elements of Object ID.

Object ID

Object ID is playing an important role worldwide in the recovery of stolen art. It is an international standard for describing art, antiques and antiquities. It was originally developed by the former Getty Information Institute through the collaboration of museums, cultural heritage organizations, police and customs agencies, the art and antiques trade, appraisers, and the insurance industry.

The primary purpose of Object ID is to encourage the proper documentation of valuables in order to facilitate the recovery of stolen works of art. A stolen object is unlikely to be recovered and returned to its rightful owner unless it has been photographed and adequately described. The Object ID checklist helps provide the information needed to identify objects. For more information on Object ID, go to archives.icom.museum/object-id/.

Three Goals When Describing Property

In general, property should be described with three goals in mind:

- Using a "word picture," document the USPAP requirement for the appraiser to identify the property or property type including its quality characteristics as well as its value-relevant physical and economic characteristics. USPAP's Standards Rule 7-2(e) states that the personal property appraiser should:

> *Identify, from sources the appraiser reasonably believes to be reliable, the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal, including:*
>
> > *(i) sufficient characteristics to establish the identity of the item including the method of identification;*
> >
> > *(ii) sufficient characteristics to establish the relative quality of the item (and its component parts, where applicable) within its type;*

> *(iii) all other physical and economic characteristics with a material effect on value;*
>
> > *Comment: Some examples of physical and economic characteristics include condition, style, size, quality, manufacturer, author, materials, origin, age, provenance, alterations, restorations, and obsolescence. The type of property and the purpose and intended use of the appraisal determine which characteristics have a material effect on value.*
>
> Note in the above Comment that *"The type of property and the purpose and intended use of the appraisal determine which characteristics have a material effect on value."*
>
> - There is no need to identify the maker (*a characteristic*) of Little Johnny's used blue jeans (*a common, depreciable type of personal property*) when determining fair market value (*purpose)* for a donation appraisal (*intended use*).
>
> - But there is a need to identify the maker (*a characteristic*) of a piece of art glass (*a rare and appreciable type of personal property*) when developing an opinion of replacement value (*purpose*) for an appraisal the *intended use* of which is so the client can obtain agreed-value insurance policy coverage.

- The description should reflect the level of detail that is normally acceptable within the trade, i.e., an essential element in all personal property appraisals is that property be described in a manner that is understood by those who participate in the marketplace in which the property is commonly traded. This requires an accurate and complete reporting of the distinguishing features and value characteristics of the property as commonly understood by those participants. As an example, for an 18th century highboy, it is common practice to make note of the circa date, country of origin, primary woods, secondary woods, condition, hardware, repairs, finish, maker or maker's marks, dimensions, etc. But such detail would be uncalled for if describing a 1990s 6' long particleboard work table with folding metal legs.

- The description should be detailed enough to allow someone unfamiliar with the property to identify the subject property from among a group of similar items. Are there unique inscriptions, serial numbers, marks or damages, or other identifiers which would differentiate the subject property from among a group of similar items? This level of description is necessary for the successful recovery of stolen property.

The item's description must address the property's relevant characteristics, i.e., those **quality, economic and physical characteristics** which add to or detract from value and which affect marketability. In general, written descriptions of the property include any combination of the following physical characteristics depending on the type of property, and the purpose ant intended use of the appraisal:

- Noun name (what the item is)
- Quantity
- Materials from which made
- Dimensions and/or weight
- Notations, signatures, inscriptions
- Manufacturer, maker or author, maker's marks
- Model name, model/serial number
- Other distinguishing marks such as damage
- Title of the work, if applicable
- Subject of the work
- Date created
- Period or style
- Mileage or hours of operation (for M & E)
- Options included (for M & E)
- Country of origin
- Decorating techniques
- Hardware or mountings
- Framing
- Type of construction
- Provenance
- Authenticity
- Grading scale level
- Citations in literature
- Exhibitions in which the item has appeared
- Condition, deterioration, restoration, conservation, reconstruction
- Alterations, additions or replacements to the property
- Depreciation, level of obsolescence

Manufactured property such as appliances, electronic devices, vehicles and furniture can often be adequately described by simply using a noun name, manufacturer's name, identifying model and serial numbers and a brief condition report. Such a technique is normal for the marketplace (especially when combined with distinguishing marks) and permits the ready identification of the property from among a group of similar items. For property that does not have such universally recognized identifiers, the appraiser must use descriptive terminology to specifically address value characteristics and other features which might impact identification and/or which might support the appraiser's value conclusion.

Descriptions May Vary

As noted in the above Comment, *"The type of property and the purpose and intended use of the appraisal determine which characteristics have a material effect on value…"* More specifically, the extent of the descriptive detail necessary to be in the report will vary depending on:

- The type of property being appraised (fine antiques or everyday household goods?)

- The purpose and intended use of the assignment (e.g., determine an opinion of fair market value for an income tax liability appraisal vs. determining orderly liquidation value for a sales advisory appraisal) The former will require a sophisticated description of the property while the descriptions of property for the latter can be abbreviated.

Other factors which will cause a variance in how property is described include:

- The scope of work the appraiser determines is required to produce credible results: The scope of work for an Appraisal Report (which requires the property's identity to be **summarized**) will often incorporate a more detailed property description than will the scope of work for a Restricted Appraisal Report (which requires that the identity merely be **stated**).

- The significance of the item to the overall assignment results: When appraising multiple objects, the appraiser must consider the significance of the value of the individual assets to the assignment results. A group of objects may have a mix of high and low value items. Those objects that are more significant to the assignment results should be subject to a greater and appropriate depth of analysis including descriptive detail used in the report as well as the level of market research used to arrive at a value opinion or conclusion.[493]

Where the information need is limited by the client (perhaps due to the client's extensive pre-existing knowledge of the subject property) the appraiser's description need not be lengthy. An example would be in the case of the client who wishes only to know a fair asking price for an item of property about which the client already has great knowledge, its current market value notwithstanding. A Restricted Appraisal Report with a limited property description would satisfy this need.

On the other hand, where the information needs of the client and/or other intended users is more complex (such as a client seeking an appraisal for a noncash charitable contribution of a high-value work of art), the description is necessarily narrative and detailed due to the need for third-party users (namely the IRS for a noncash charitable contribution appraisal) to be satisfied as to the nature of the donated property, its quality and relevant characteristics, and its fair market value.

Similarly, a detailed description is needed for fine jewelry for which insurance coverage is being sought. Without a formal and detailed description, insurance companies would be unable to underwrite the policy or, in case of a loss, to settle a claim equitably.

For these examples, a more detailed and sophisticated description of the property as well as making use of USPAP's Appraisal Report option would be appropriate.

Other than machinery and equipment (see below), most items of **depreciable** personal property can normally be described in a brief manner—not only because it is typically acceptable to do so within the marketplace, but also because value levels are usually relatively low and the intended uses for which depreciable property is appraised are normally not very demanding.

Appreciable property such as antiques, collectibles, art and jewelry, on the other hand, normally demand lengthier and more sophisticated descriptions due to their uniqueness, potentially high value, varying competing opinions as to possible worth, and the more complex and often litigious needs of the uses for which such appraisals are intended.

In review, the degree or extent to which the property need be described will depend on:

- The intended use of the appraisal
- The type and definition of value being developed
- The needs and desires of the client and other intended users

[493] See USPAP SR 7-4(e).

- The USPAP report option employed (i.e., Appraisal Report vs Restricted Appraisal Report)

- The relative value level of the item being appraised

- The existence (or lack) of certain (often unique) relevant characteristics

IRS Guidance to its Valuators

In §4.48.3 *Tangible Personal Property Valuation Guides* of its *Internal Revenue Manual* (IRM)[494], the IRS provides its reviewers with the following guidelines for valuation practice involving tangible personal property. Specific information as noted in the following lists is for personal property (with a focus on high value property types) as well as its subset, machinery and equipment. These lists shed light on IRS expectations as to the type of property descriptive information which should be considered for inclusion in federally-related appraisal reports.

Personal Property Descriptions Should Include Where Applicable

- *Name of the artist, culture, maker or place or origin*
- *Title, type or subject matter*
- *Medium, such as oil on canvas; material, such as silver, porcelain, oak, etc.*
- *Age or date created*
- *Size/dimensions or weight if applicable*
- *Any marks, signatures, distinguishing features or labels on the item*
- *Ownership history (provenance) of the item*
- *A record of any exhibitions at which the item was displayed*
- *Any reference source citing the item*
- *The physical condition of the item*
- *A professional quality photograph of a size and quality fully showing the item*
- *Other information deemed to be relevant to the specific property being valued*

Machinery and Equipment Should Include

- *Manufacturer, model and serial number of equipment*
- *Age and condition of equipment, hours of operation*
- *Legal description*
- *Description of property, including name, physical features and options, dimensions, capacity access, etc.*
- *Description of improvements and modifications, including features, condition, and any forms of physical, functional or economic obsolescence*

[494] This section of the IRM can be viewed at IRS.gov/irm/part4/irm_04-048-003.html which states, "Personal property includes but is not limited to paintings, watercolors, prints, drawings, sculpture, ceramics, furniture, decorative arts, antiques, textiles, carpets, silver, rare manuscripts, historical memorabilia, antiquities, ethnographic art, collectibles, gems and jewelry. Machinery and equipment and other items classified as personal property are all intended for inclusion."

- *Use(s) to which the property is being put, including but not limited to value as a stand-alone or as part of an entire plant or larger manufacturing, research or development system*
- *The owner of record and, if practical or available, copies of the bill of sale, blueprints and placed-in-service date*
- *The history of the property, including any sales in the five (5) years preceding the valuation date or any sales since the valuation date to the present; both periods of sales should include the sales dates, prices and the names of the sellers and buyers*
- *If during either of the two preceding periods, the property was rented, then the dates when the property was leased, rental terms, copies of leases, rent rolls and a history of income and expenses*
- *Quality photograph of the subject property showing the item and improvements and modifications* (IRS)

Describe in a Consistent and Accepted Manner

Descriptions for many categories of personal property are expected by the marketplace to contain certain elements of information without which the description is considered incomplete. If you are a specialist, you are probably already familiar with such conventions as used within your specialty area. Here are just a few examples showing the minimum information that should be included in the description (note the use of standardized grading scales if they exist):

- **Books**: author's name, title of book, publisher's name and location, copyright year, edition, size, binding format, condition (use standardized grading scale: Fine, Near Fine, Very Good, Good, Fair, Poor)

- **Paintings**: medium (e.g., oil on canvas, watercolor), subject, artist, title, dimensions, signatures, date, inscriptions, condition

- **Clocks**: type (e.g., mantle, tall case), maker, date, material (e.g., ormolu, mahogany), dial (e.g., enameled, brass), decoration, marks, description of movement, dimensions, date, condition

- **Silver**: type (e.g., sterling, 800, silver-plated), type (e.g., bowl, trophy), decoration (e.g., repoussé, bright cut), hallmarks, date, country of origin, dimensions, Troy oz. weight, condition

- **Furniture**: type (e.g., chair, highboy), style, primary and secondary wood type, features, date, country of origin, upholstery, maker's marks, condition, dimensions

Learning to Describe

While specialty books and periodicals provide a wealth of information about a property, they are often not the best source for examples of property descriptions from which an appraiser can learn how to describe property in a complete, concise, clear and efficient manner for purposes of preparing appraisal reports.

Auction catalogs (either online or printed) from reputable auction firms often provide the best examples of descriptions from which to learn how to describe property. Whether its furniture,

lighting, silver, jewelry, machinery and equipment, fine art, firearms, textiles, toys, sports collectibles or Hollywood memorabilia, auction catalogs contain countless descriptions written by knowledgeable and experienced catalogers that are based on commonly-accepted descriptive terms and conventions. When accompanied with a photograph of the property being described, catalog entries provide an ideal study tool when learning how to describe.

Retailers' advertisements, websites, flyers, catalogs and other promotional material also feature descriptions highlighting a property's relevant characteristics. So, they too provide a wealth of learning opportunities.

Examples of Property Descriptions

A depreciable property such as a 10-year-old metal filing cabinet would normally be described in the same, simple manner regardless of the purpose or intended use of the appraisal:

> *Metalcraft black metal, letter size, 5-drawer file cabinet, model A-7924.*

As an example of appreciable property, the estate executor's limited scope of work for an estate tax appraisal might require only a single line item description for a collection of three Hummel figurines:

> *Three Hummel figurines including "Coming Home," 3-line mark, h-4 ½", "Little Friend," 3-line mark, h-4 ¼", and "School Boy," 3-line mark, h-4 ¼".*

However, if the same three items were being described for appraisals having a different intended use and/or greater scope of work, more descriptive detail would be required. Such instances might include appraisals done for heirs who have the need to know individual values, or for insurance, legal, or tax liability reasons.

In such a case, combining the three items into one line item would be insufficient. Instead, each figurine would be listed separately and would be described in greater detail than was done for the estate appraisal. For an insurance appraisal, a description similar to the following would be considered:

> *1. Hummel figurine entitled "Coming Home" depicting boy holding basket together with girl holding bouquet, impressed model # 52/0, 3-line mark, h-4 1/2", excellent condition.*
>
> *2. Hummel figurine entitled "Little Friend" depicting girl stooping to feed squirrel, impressed model # 81/0, 3-line mark, h-4 1/4", chipped base.*
>
> *3. Hummel figurine entitled "School Boy" depicting boy wearing backpack, impressed model # 82/0, 3-line mark, h-4 1/4", excellent condition.*

Using Description Headers

Some appraisers choose to describe property with the aid of standardized descriptive headers such as:

- *Type of object:*
- *Materials:*
- *Quantity:*
- *Description:*
- *Dimensions:*
- *Date made or period:*
- *Maker:*
- *Inscriptions, markings, signatures:*
- *Condition:*

Fine-tuned for a work of art, the above descriptive headers might include the following:

- *Title:*
- *Artist:*
- *Date:*
- *Medium/Publisher:*
- *Subject/Description:*
- *Signature/Markings*
- *Sight Size:*
- *Canvas/Paper Size:*
- *Framing Information:*
- *Condition:*
- *Provenance:*
- *Exhibitions/Literature:*

As an example of using description headers, below is a description of Frederick Church's painting, "Polar Bears":

> **Title**: "Polar Bears"
> **Artist**: Frederick S. Church (1842-1924) American
> **Date**: 1887
> **Medium**: Oil painting on wood panel; framed under glass
> **Description**: A black and white painting of two polar bears at the edge of the water, standing on a wide plain of ice. One is lying slain with blood running from a wound in its side. The other is sitting close by with its nose upwards as if sniffing the air.
> **Signature/Markings**: Signed "Frederick S. Church" and dated "1887", lower left
> **Canvas Dimensions**: 16" (h) x 23" (w)
> **Frame**: Custom-made 3 ½" wide frame painted in tons of gold and charcoal gray
> **Condition**: Appears to be in excellent condition. Examined while framed and glazed. The internal mounting techniques, condition of margins, and the use of archival mounting materials are unknown.
> **Provenance**: none known

In the below table are several examples of descriptions of different types of personal property including jewelry and antiques. Each description can be elaborated upon to stress important relevant characteristics such as an item being in unusually pristine condition, or the item being one of only three copies known to exist, or an item being in unusually poor condition. Other item-specific information such as specific comparable sales used to form a basis for value should also be included within the description of the item (if required by the intended use of the appraisal) so

that the client and other intended users can be made aware of all item-specific information upon which the appraiser based his or her opinion.

Jewelry	RING. One 18K yellow gold bright finish tiffany ring shank measuring 2.3 mm wide on the shoulder and tapering to 1.5 mm wide by 1.3 mm high on the base. The shank is stamped and trademarked, cast and assembled to a platinum setting consisting of one four-prong and two three-prong settings. The ring is set with: • One 1.51 carat round brilliant cut diamond, measuring 7.24 mm by 7.28 mm by 4.63 mm, of SI 1 clarity, and D color, and very good make. The diamond has a 63.8% total depth, 55% table, slightly thick faceted girdle, very good polish, and good symmetry. (See Plot) • Two 0.17 carat triangular brilliant cut diamonds of VS clarity, DEF color, and good make. The ring has a total weight of 3.70 grams.
Jewelry	NECKLACE. One lady's handmade Art Deco style platinum, ruby, and diamond pendant on a chain. Tested platinum and is secured with a 14K white gold spring ring catch. The pendant has a split bail attached to a ring at the top of the platinum (tested) frame. The frame has round diamonds bead set and baguette diamonds bezel set around a bezel set ruby. The pendant is set with: • One rectangular cushion sugarloaf cabochon cut ruby measuring 8.0 mm by 7.50 mm by 3.90 mm having an estimated weight of 2.50 carat. The stone has a medium strong pinkish red body color, and is type II of I1 clarity. The polish is good and the proportions are good. Note: the ruby shows no evidence of thermal enhancement. • Four 0.04 carat straight baguette cut diamonds measuring 2.80 mm by 1.60 mm by 0.8 mm, of VS1 clarity, HIJ color, and good make. • Eight 0.03 carat Old European cut diamonds of VS2 clarity, GHI color, and good make (Based on OEC diamonds). • Four 0.015 carat single cut diamonds of VS2 clarity, GHI color, and good make. • The pendant and chain have a total combined weight of 5.52 grams.
Furniture	WASHSTAND. American panel-ended maple washstand, circa 1888; the upper section has a towel bar over a backsplash; the lower section having one long drawer over two short drawers to the left and a cupboard door to the right; the drawers with Knapp joints; all on a molded base; normal wear and tear, replaced hardware, top board with 6” split in right end and some water stains; h-52”, w-30½”, d-18”.
Furniture	CHINA CABINET. American oak bow front china cabinet, c. 1900; the curved top with convex edge molding is over a single full-length door with bowed glass; the door is flanked by two full-length bowed glass side panels; the interior contains four conformingly-shaped wooden shelves; above the top shelf the cabinet back has a mirrored surface; all raised on front scroll feet; h-60”, w-30”, d-19”; excellent condition with original finish.

Lamp	TIFFANY LAMP. DRAGONFLY LEADED GLASS AND BRONZE TABLE LAMP BY TIFFANY STUDIOS, c. 1900; the domed shade decorated with seven dragonflies, their bodies in mottled green with moss green "eyes," their wings in mottled green with delicate openwork bronze overlay, against a mottled light amber ground, set with amber cabochon "jewels," a brass tag stamped TIFFANY STUDIOS NEW YORK on the shade interior, surmounted by a pierced slightly domed bronze cap and finial ; the bronze base cast with the four virtues, stamped TIFFANY STUDIOS NEW YORK 557; h-26", shade dia. – 20".
Silver	WINE COOLER. Continental 900 silver table wine cooler with separate underplate; the cooler of cylindrical form with a cast acanthus leaf rim attached to which are two opposing cast full figure hound handles; the sides with applied grapes and vine repoussé decoration at the waist; below is fluting above the stepped circular base; the underplate with cast acanthus leaf rim and starburst repoussé center; both pieces marked with a crown over "81" on top of 2 horizontal lines within an oval and over a circle; flanked to the left by "900" within an oval and flanked to the right by the script "Barul"; maker unknown; cooler h-11 1/4", h-13 1/2"; the underplate dia-12.7"; the cooler weight 76 toz. 15 dwt.; the underplate weight 29 toz. 10 dwt.; excellent condition.

Combining Items: Describing Groupings, Collections, and Accumulations

While appraisals typically list one item at a time, often the appraiser encounters the need to combine items together as **groupings**, **collections** or **accumulations** of property. For instance, pairs, sets and suites are often encountered when conducting an appraisal for the purpose of acquiring insurance coverage. When preparing estate appraisals, the appraiser frequently encounters accumulations such as of common hand tools or of everyday dishes and glassware.

The degree and depth to which groupings, collections or accumulations of property are described will hinge on:

- The scope of work, and purpose and intended use of the appraisal
- The relative value of the properties being combined together
- The needs of the client and other intended users[495]
- The degree of similarity of the property
- Whether or not the property is considered as appreciating property or depreciating property

Describing Groupings

Groupings are defined as more than one item for which the individual items are either identical or part of the same set, service or suite. For appreciable property, the value of a grouping could be enhanced if all the members of the group are present. Examples of groupings include:

[495] As an example, an intended user might need certain knickknacks listed separately instead of being grouped as part of an "accumulation" of similar items.

- **Pairs** (e.g., candlesticks)
- **Sets** (e.g., sterling silver dresser set)
- **Services** (e.g., dinnerware, flatware or crystal stemware services)
- **Suites** (e.g., of furniture such as a suite of bedroom furniture)

Because of the potential for a premium in value to be added for groupings that are complete, it is important to **recognize** when the grouping is complete (or incomplete) and to accurately list the individual items that make up the entire grouping. Another reason for listing the individual components is that it might be required by the insurance company such as is normally the case for an appraisal of a sterling silver flatware service done for the intended use of acquiring insurance coverage.

For damage claims appraisals of groupings, be sure to describe the complete group as it would appear if complete and undamaged as well as those parts which have been damaged or lost. A damaged or lost part could have a significant negative impact on the value of an otherwise complete and undamaged grouping.

A description of a pair of candlesticks might be:

> *Pair of International Silver Co. sterling silver candlesticks in the "Diamond" pattern, c. 1945; the socket supported on an undecorated tapering faceted column mounted on a square domed base; good condition; h-11".*

For the intended use of acquiring insurance coverage, a sterling silver flatware service for eight might be described as:

> *78-piece sterling silver flatware service for eight by International in the "Prelude" (a current) pattern; mid-20th century; all pieces in good condition; without monogram; the service consisting of:*
>
> *a. Eight place knives @$90*
> *b. Eight place forks @$110*
> *c. Eight iced beverage spoons $120*
> *d. Eight salad forks @$100*
> *e. Eight soup spoons @$90*
> *f. Eight cocktail forks @$90*
> *g. Eight individual steak knives @$90*
> *h. Sixteen teaspoons @$80*
> *i. Two tablespoons @$200*
> *j. One sugar spoon @$80*
> *k. One cold meat fork @$220*
> *l. Carving knife and fork @$180*
> *m. One gravy ladle @$220*

However, if done for a less demanding intended use having a lesser scope of work such as for state estate tax purposes or for an assignment making use of forced liquidation value, the above might be described simply as:

> *78-piece sterling silver flatware service for eight by International in the "Prelude" (a current) pattern; all pieces in good condition.*

In the above examples, the inclusion of the troy ounce weight of the sterling silver flatware was not considered necessary by the appraiser. Some appraisal intended uses such as federal estate appraisals, however, require including the weight of silver in Troy ounces.[496] In addition, it is customary within the trade to always include silver weight when describing certain types of sterling silver such as early American hollowware or flatware.

Describing Collections

Collections consist of a number of objects of the same property type that have been accumulated for the same purpose. Often, they are of a similar nature having similar relevant characteristics. Collections are another form of combining items and has its own unique descriptive requirements.

Collections may be of valuable appreciable items such as 19th century toy mechanical banks, Barbie dolls, Depression glass, or baseball cards. Or, they may be depreciable in nature such as collections of Beanie Babies or common souvenir shot glasses.

Unlike **groupings**, collections normally have no premium in value added because of the degree of completeness. Typically, the aggregate replacement value of the collection is simply the additive values of the individual items that make up the collection. In addition, the market value for a collection is often less than the combined market values of the individual parts.

And unlike **accumulations** (below), when dealing with collections of appreciable items such as a collection of art glass or Oriental porcelain, because of the significance of each individual member, such collections of appreciable items normally require that each member within the collection be listed, described, and valued separately.

Describing Accumulations

In addition to groupings and collections, it is often necessary to develop a system for describing **accumulations** of property which, while similar in type, are not components of **groupings** nor are they **collections**—rather they are simply assemblages of miscellaneous items of a common property type.

An assortment of household linens, miscellaneous pots and pans, common everyday dishware and glassware, plastic storage containers, common garage hand tools, etc. all fall into the category of accumulations. Accumulations consist of items that are depreciable in nature and normally of nominal value; therefore (if there is no objection from the client), to save time and expense it is common practice to list accumulations of similar items together in one line-item rather than listing each item separately.

Typically, accumulations of depreciating property need not be described to any greater degree than the following examples:

1. *Miscellaneous and common amount of kitchen utensils.*
2. *Usual amount of assorted bed and bath linens including towels, sheets, pillow cases, and mattress pads.*
3. *Small amount of miscellaneous everyday dishes and glassware.*

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[496] See Treasury Regulation Section §20.2031-6(d) in Appendix Q.

4. *Large amount of common pots and pans.*
5. *Small amount of common kitchen flatware.*
6. *Approximately fifty common hand tools.*
7. *Six common small electric kitchen appliances.*

It is normally sufficient to use such abbreviated descriptions for depreciable accumulations; however, if the intended use of the appraisal is for a litigious divorce, it may be necessary to count and provide a greater level of descriptive detail even for relatively insignificant items included within accumulations. For federal estate appraisals, appraisers are allowed to group articles that are in the same room and each of which has a value of less than $100.[497]

Be on the lookout for **appreciable** items of property when grouping seemingly **depreciable** property. A linen closet full of common white goods may be hiding a valuable 19th century quilt. A box of apparent costume jewelry may contain a diamond ring. A kitchen cabinet full of everyday dishes may contain some valuable American art pottery, and the utensils drawer always seems to have a piece or two of sterling silver flatware mixed in with all the stainless steel.

Archival Material

Archival material is a special category of accumulations which consists of objects of any form that serve as evidence of the past and which are preserved for future use to aid the recall and re-communication of past experiences. The market value of archival material will depend on its content as well as its association with historically significant individuals, places or events. It is not unusual for archival material (while perhaps having significant "intrinsic value"[498] to libraries and researchers) to often have minimal market value. Determining the value of archival material is challenging. Seek past sales of archival accumulations (having as close to comparable significance as possible) as a basis for your opinion of value.

Tips for Describing Property

Be sure to properly identify the subject property and its relevant characteristics, and to use due diligence to determine if authentication is necessary. Property that, in the appraiser's opinion, requires authentication in order to be properly valued should be taken to an expert for such services. Property cannot be described until the identification and authentication process is complete.

Describe the property in a "word picture" in accordance with commonly accepted standards and as understood within the applicable marketplace. Typically, as noted earlier, many specialty types of appreciable property have a standardized and accepted method for being described. Use language that will be clear to potential users but which demonstrates your familiarity with the property being appraised. Include definitions of unusual or foreign-language terms used, if necessary.

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[497] See Treasury Regulation Section §20.2031-6(1) in Appendix Q.

[498] Intrinsic value is a term applied to archival material that has qualities and characteristics that make the material in their original physical form the only archivally-acceptable form for preservation.

Avoid Subjective Phraseology

Avoid using subjective phraseology which has little if any substantive meaning. Such terms are often misleading, and their use does not improve the reports understandability. Examples of terms to be avoided include:

- elaborate
- particularly fine
- superb
- fabulous
- fine quality
- very impressive
- beautiful
- medium weight
- huge
- very large
- enormous
- elegant
- lovely
- pretty
- handsome
- exquisitely done
- very outstanding
- graceful
- fantastic
- very unusual
- rare
- magnificent
- truly unbelievable
- splendid
- charming
- stunning
- antique
- collectible
- awesome
- small

Avoid unsupported claims as to condition or rarity. For instance, "a very rare example" is meaningless when not put into context of the possibility of occurrences. "Rare?" Relative to what? Use your experience, knowledge, past personal observations and documented frequencies to better substantiate such observations. A more meaningful description would be, "*Only two others are known to exist, so in my opinion this is an extremely rare example."*

Similarly, the use of terms that reflect a **scale** such as "very good," "average," or "poor" should also provide contextual information that properly explains the frame of reference and relative position of the subject property on the scale. For instance, if assigning a "Condition Code 3" to a special interest automobile, make mention of the reference being used (and that, for instance, the possible condition codes range from Condition 1 ("excellent") down to Condition 6 ("good for parts only")) and then attach a description of the entire condition scale used as an addendum to the final appraisal report.

Describe items in a methodical fashion, e.g., from top down or from left to right. Work in a consistent manner—some specialist appraisers create customized description worksheets or forms for property they frequently encounter such as sterling silver flatware, dinnerware[499], jewelry, quilts, or firearms. Using pre-designed forms not only makes the process faster but also assures that no pertinent information that should go into the description is overlooked.

A Word about Measurements

Important as they are, other than the IRS requirement that silver being appraised for federal estate tax purposes be weighed in Troy ounces, there appears to be no mandated requirements as to how or when measurements are to be included in an item description. USPAP, however, states in Standards Rule 8-2 *Content of a Personal Property Appraisal Report* that the appraisal report must include:

> *...information sufficient to identify the property involved in the appraisal, including the physical and economic property characteristics relevant to the assignment...*

[499] See Appendix H *Sterling Silver Flatware Inventory* and Appendix I *Dinnerware Inventory*.

One could conclude, therefore, that measurements (being a "physical property characteristic" of great significance in properly understanding the personal property being appraised) are, indeed, indirectly mandated by USPAP.

Techniques for describing measurements of size and weight vary and are seldom standardized or universally accepted. Instances in which a generally-accepted convention for measurements does exist are in the case of paintings (in which height is typically listed first) and for books (in which terms and not dimensions are used to indicate size, e.g., **octavo** vs. **quarto**).

Dimensional measurements are usually given in feet and inches (the customary U.S. units of measure), but for art, dimensions are normally given only in inches as opposed to feet and inches. If your report's readership is more familiar with the metric system, you may wish to include the dimension's metric equivalent (in meters and centimeters) as well. Here are some common methods in which frequently-encountered property types are measured and the order in which those measurements are typically presented:

- Furniture—height X width X depth (for a drop leaf table record width (open) as well as width (closed))
- Painting (if stretcher accessible)—height X width of stretched canvas (excludes frame)
- Painting (if stretcher not accessible)—measure "sight size" height X width (sight size is the size of the frame opening, i.e., the viewable size of the art)
- Print (etching or engraving which leave a plate mark)—measure plate mark: height X width (excludes title, signature line, publisher's line, border, margin, frame)
- Print (lithograph, woodblock, serigraph which does not leave plate mark)—measure image size height X width (excludes title, signature line, publisher's line, border, margin, frame)
- Maps—measure neatline (map border or frame) if it exists, otherwise measure image size: height X width
- Prints (all)—paper size (if accessible): height X width
- Any framed art of indeterminate size such as a watercolor framed under glass—sight size height X width (excludes frame)
- Frame—height overall X width overall X width of molding
- Sculpture—height
- Vase—height X width
- Oriental rug—width X length
- Folding paneled screen—height X width of each panel

- Clock—height X width X depth
- Wall mirror—height X width
- Dinner plate—dia.
- Handled tureen—length (less handles)
- Oval platter—length
- Figurine—height X width
- Lamp with fabric shade—height (without shade or yoke; record either "overall height" or if base is a porcelain jar, for instance, record "height of jar")
- Art glass lamp—height X dia. (of shade)
- Stein—height X vol (in liters)
- Chandelier—height X dia.
- Sterling silver (dimensions X weight in Troy ounces/pennyweight)—e.g., Silver Bowl: 5" (h) X 12" (dia.) X 43 oz. 12 dwt.
- Sterling silver teapot with non-silver handle—height X gross weight in Troy ounces
- Sterling silver tea service—height of coffee pot X weight of service in Troy ounces
- Sterling silver flatware service—length of each piece X total weight of service in Troy ounces
- Wall decorations—height X width
- Gemstone—length X width X depth X weight (in carats)
- Necklace—link length X link width X overall length
- Televisions—diagonal
- Orders, medals and decorations—(in millimeters)
- Books—Terms are used to indicate book size in lieu of dimensions. Measurements are approximate. (The British system is different.) Book dealers may vary on a book's classification since there is no fixed standard.
    - miniature - less than 3" tall
    - 64mo – 2" X 3"
    - 48mo – 2.5" X 4"
    - 32mo – 3.5" X 5.5"
    - 24mo – 3.5" X 6"
    - 16mo – 4.25" X 6.75"
    - 12mo – 5" X 7 ½"

- 8vo, Octavo – 6” X 9”
- 4to, Quarto – 9” X 12”
- Folio – 12” X 15”
- Elephant Folio – 23” - 25” in height
- Atlas Folio – 25” - 50” in height
- Double Elephant Folio – 50”+ in height

Chapter 11: Writing an Appraisal Report

This chapter focuses on the preparation of an **appraisal** report which is used by the appraiser to communicate the results of an appraisal assignment to the client. USPAP STANDARD 8 *Personal Property Appraisal, Reporting* governs appraisal reports including their content.[500]

USPAP defines a *Report* as:[501]



REPORT: any communication, written or oral, of the results of an appraisal or appraisal review that is transmitted to the client or a party authorized by the client upon completion of an assignment.

The appraisal report contains the answer to the question being asked of the appraiser—what is the item worth? In other words, the report satisfies the **purpose** of the appraisal assignment which is to develop an opinion of a defined type of value. But just as importantly, the appraisal report (along with the assignment workfile) also contains the information on which that opinion of value is based.

Properly written appraisal reports not only satisfy the appraiser's obligation to the client and other intended users, but they also give the appraiser pride of authorship and, on occasion, may even be sufficiently impressive to give the opposing side reason to reconsider a decision to move forward with a legal action.



The methodology for preparing the appraisal report and the required content of the appraisal report are governed by USPAP **STANDARD 8** ***Personal Property Appraisal, Reporting***, by guidance provided in USPAP Advisory Opinion 38 *Content of an Appraisal Report and Restricted Appraisal Report*, by relevant state or federal requirements (such as IRS regulations regarding donation appraisals), and by an appraiser's societal appraisal report writing standards, if any.

In all assignments, the appraiser must select whether to make use of USPAP's Appraisal Report option or its Restricted Appraisal Report option. The intended use of an appraisal drives the decision as to which of those two options will be used. The intended use also drives the type and definition of value used and the scope of work required to develop credible assignment results. These factors, in turn, drive the report content and the detail of that content.

For instance, an IRS or a litigation appraisal might require the development of an opinion of fair market value, a substantial scope of work, and the use of a fully-narrated report using the Appraisal Report option—the content of which will necessarily be significant and very detailed.

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[500] In a similar manner, when performing an **appraisal review** assignment, the appraiser will be required to communicate the results of the appraisal review but in accordance with STANDARD 4 *Appraisal Review, Reporting*. But for purposes of this discussion we will focus only on the **appraisal** report and not appraisal review reports. For the required content for **appraisal review** reports, see the Chapter 7 section entitled *Appraisal Review, Reporting* as well as USPAP's STANDARD 4 *Appraisal Review, Reporting*.

[501] Most reports are written and most clients mandate written reports. Oral report requirements (see the RECORD KEEPING RULE) are included to cover court testimony and other oral communications of an appraisal or appraisal review.

On the other hand, a simple sales advisory appraisal assignment to determine an item's orderly liquidation value for a client who wants to sell the item will require a minimum scope of work and will probably make use of the Restricted Appraisal Report option which, by definition, need contain much less content and detail.



Put another way, whether or not the report contains supporting rationale will depend on the needs of the client and other intended users, on the intended use of the appraisal, and on the significance of a particular object to the overall assignment results. As an example, significant descriptive detail and maybe even comparable market data would be included in an appraisal report for an 18th century highboy being appraised for donation purposes. On the other hand, for a Sears dresser being appraised for state estate purposes, the estate appraisal will contain little in the way of a description and certainly no comparable market data.



The written appraisal report demonstrates the expertise of the appraiser and the appraiser's ability to clearly and completely present relevant information, opinions and conclusions in an unbiased, organized and reasoned manner. The appraisal report contains arguments in support of the appraiser's conclusion. A value conclusion can be high or low, but in either case it must be supported by relevant data whether in the form of comparable market data or, for items of nominal value, by the appraiser's past experiences and personal observations. **To the degree appropriate for the intended use of the assignment results**, the appraisal report documents in a logical and convincing manner the process and reasoning that led to the appraiser's final opinions and conclusions. Care must be taken to use good grammar, punctuation, sentence structure and spelling.

Appraisal reports can be lengthy and detailed, or they can be relatively short and abbreviated. The **intended use** of the appraisal report coupled with the assignment's **scope of work** may limit the amount of content and detail that needs to go into a particular appraisal report. Conversely, the intended use and scope of work may cause the appraiser's narrative report to be lengthy and complex, and contain a much greater amount of content and detail, i.e., supporting rationale.



Appraisal reports (either written or oral) are often for use not only by the client but, on many occasions, by other intended users as well. It is, therefore, imperative that the appraisal report be complete in its content of relevant information so that intended users who would not otherwise be familiar with the property or with the appraisal process can become adequately and completely informed by means of the final appraisal report. Having said that, note that in the case of a Restricted Appraisal Report the report must disclose that the report **can be used only by** the client and the named intended users. The report must also state that the Restricted Appraisal Report **might not** contain supporting rationale for all the opinions set forth in the report. Such a warning might state:



This report makes use of the Uniform Standards of Professional Appraisal Practice's (USPAP's) *Restricted Appraisal Report option. Accordingly, use of this report is limited to the client and only those other intended users specifically named herein to the exclusion of all others. Note that reports making use of USPAP's Restricted Appraisal Report option may not contain supporting rationale for all of the opinions and conclusions set forth in the report.*

STANDARD 8 Ethical Obligations When Reporting[502]



USPAP STANDARD 8 *Personal Property Appraisal, Reporting* addresses the overall performance requirements for appraisal report preparation. In addition, STANDARD 8 also addresses some of the **ethical obligations** associated with report preparation. Specifically, Standards Rule 8-1 *General Reporting Requirements* requires that each written or oral personal property appraisal report must:

- *clearly and accurately set forth the appraisal in a manner that will not be misleading;*
- *contain sufficient information to enable intended user(s) of the appraisal to understand the report properly;*
- *clearly and accurately disclose all assumptions, extraordinary assumptions, hypothetical conditions, and limiting conditions used in the assignment.*[503]

Appraisal Reports are not Legal Documents

As noted in Chapter 1, appraisal reports are not legal documents. Legal documents are documents that state some contractual relationship or grant some right. Examples include wills, deeds, employment agreements and buy/sell contracts. While an appraisal report is not a legal document per se, it may be admissible as evidence in certain types of court cases. Written appraisal reports may also be used to support legal actions, such as an insurance claim dispute, and are frequently used in divorce, bankruptcy, liquidation, and probate estate review procedures. In such situations, it is likely that the appraisal report will be subjected to close scrutiny.

Writing in the Third Person

While it is your personal business decision, I prefer to write my reports in the first person and not in the third person as though I am referring to myself as if I were someone else. For example, writing in the first person, I would write "I researched comparable market data within the local auction market..." But if writing in the third person, I would write "This appraiser researched comparable market data within the local auction market..."

My opinion is that reports should be written like business letters; accordingly, I write as I would speak if face-to-face with the addressee. Appraisers often write in the third person, and I do not understand why. Writing in the third person, to me, seems a bit pretentious. I suppose there is a desire to be formal, but my reports are, in fact, a letter to an individual, so I prefer to write as though I was speaking face-to-face with the client. For example, I would neither write nor say to my client, "On January 15, 2020 this appraiser conducted an inspection of your personal property..." Instead, I would write or say, "On January 15, 2020 I conducted an inspection of your personal property..."

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[502] See the Chapter 7 section entitled *Ethical Obligations of Reporting* for a discussion of additional ethical obligations of the appraiser.

[503] Additional ethical obligations of reporting can be found in other locations within USPAP as well. For a further discussion of the ethical obligations of reporting, see the Chapter 7 section entitled *Ethical Obligations of Reporting.*

Required Content Depends on Which Report Option Used

The required content of the appraisal report is dictated by USPAP and will depend on whether the appraiser chooses to make use of the USPAP-defined **Appraisal Report** option or the **Restricted Appraisal Report** option.[504], [505] We discuss the required content of each of these two report options in the following sections. The essential difference between these two options is in the content and level of information provided. The appropriate reporting option and the level of information necessary in the report will be dependent on the intended use of the report and on the needs of the client and other intended users.[506]

USPAP establishes the minimum content of an appraisal report for each of the two appraisal report options. In addition to these minimums, however, the appraiser may elect to include additional information as he or she sees appropriate in order to make the report understandable and not misleading such as a bibliography of reference resources, glossary of terms, or grading scales used. (Later in this chapter we will suggest some additional optional content that has proven beneficial to include along with the minimum requirements as established by USPAP.)

Primary Difference Between the Two Report Options: State vs. Summarize



To “state” is to present an opinion, conclusion or analysis in a report without the inclusion in the report of supporting rationale.



This is as opposed to “summarize” which is to present an opinion, conclusion or analysis in a report **along with** supporting rationale.

Several of the required items for both the Appraisal Report option as well as the Restricted Appraisal Report option differ only by the use of the terms “summarize” versus “state.” What's the difference? In brief, "state” would be a much more abbreviated presentation than “summarize;” regardless, whether "stating" or “summarizing,” the appraiser must ensure (considering the intended use of the report and needs of the intended users) that the report contains sufficient information for the report to be properly understood by all intended users.

So, “state” is used to connote a minimal presentation of information. “Summarize” is used to connote a greater depth and detail of presentation. How much "greater" would depend on the intended use of the report as well as on the needs of the client and other intended users. For instance, "summarizing" would entail a narrative of greater depth and detail for an assignment having as its intended use the client's charitable contribution or the intended use of litigation than it would for a less-complicated assignment intended to be used by the client to merely acquire insurance coverage or when pricing for an estate sale.

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[504] Prior to January 1, 2014 there were three USPAP report options: Self-Contained, Summary and Restricted Use. Changes incorporated into the 2014-2015 edition of USPAP, however, resulted in there now being only two report options—the **Appraisal Report** option and the **Restricted Appraisal Report** option.

[505] An appraiser may use any other label in addition to, but not in place of, the labels set forth STANDARD 8 *Personal Property Appraisal, Reporting*, i.e., in lieu of “Appraisal Report” or “Restricted Appraisal Report.” One or the other label must be used.

[506] For a complimentary discussion regarding Appraisal Reports and Restricted Appraisal Reports see the Chapter 7 section entitled *STANDARD 8 Personal Property Appraisal, Reporting.*

Required Content When Using the "Appraisal Report" Option

When using the **Appraisal Report** option, certain (but not all) information must be "summarized" in an expanded presentation[507]. Certain other information need only be "stated." Because of the included supporting rationale, an Appraisal Report is more narrative and contains a more comprehensive level of information detail than does a Restricted Appraisal Report. The primary difference between what is required to be in an Appraisal Report as compared to what is required to be in a Restricted Appraisal Report boils down to "summarizing" versus "stating" several of the elements of required report information.

What significant information needs to be summarized instead of simply stated? Of the twenty elements of information listed below that are required to be included when using the Appraisal Report option, the following must seven be **summarized** by the inclusion of supportive rationale:[508]



(Note that this entire section has been updated.)

- #4 Information sufficient to identify the property
- #8 The scope of work performed to develop the assignment results
- #9 Extent of significant personal property appraisal assistance provided by other appraisers, if any
- #10 The appraisal methods or techniques employed
- #12 The results of analysis of prior sales, agreements of sale, options and listings in accordance with SR 7-5, if necessary
- #14 Information analyzed and reasoning in support of the analysis, opinions and conclusions
- #16 Support and rationale for an opinion of appropriate market or market level developed in accordance with SR 7-3, if necessary

By the way, it is not necessary that an Appraisal Report contain **all** possible information and data, but only that information which is **relevant to the assignment at hand**. The content of an Appraisal Report must be consistent with the intended use of the appraisal and with the needs of the client and other intended users, if there are any. Including such relevant information will enable the client and other intended users to understand the report properly including the rationale behind the opinions and conclusions. After all, it is the rationale that is the basis for the assignment results.

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[507] An Appraisal Report must contain all information that is significant to the intended use of the report and to the needs of the client and other intended users, if any. All information necessary for the appraisal report to be non-misleading, understandable and credible must be included an Appraisal Report and not just be retained in the workfile.
[508] See USPAP SR 8-2(a) (requirements when using the Appraisal Report option) for details.

As required by USPAP SR 8-2(a), at a minimum, Appraisal Reports must contain the following nineteen elements of information:



(Note that this entire section has been updated.)

1. SR 8-2(a)(i): **State** the identity of the client, or if the client requested anonymity, state that the client's identity is withheld at the client's request but is retained in the appraiser's workfile. In such cases, avoid violating the confidentiality obligations of USPAP:

   Comment: Because the client is an intended user, they must be identified in the report as such. However, if the client has requested anonymity the appraiser must use care when identifying the client to avoid violations of the Confidentiality section of the ETHICS RULE.

2. SR 8-2(a)(ii): **State** the identity of any other intended user(s) by name or type.

   Comment: A party receiving a copy of an Appraisal Report in order to satisfy disclosure requirements does not become an intended user of the appraisal unless the appraiser identifies such party as an intended user as part of the assignment.

3. SR 8-2(a)(iii): **State** the intended use of the appraisal.

4. SR 8-2(a)(iv**): Summarize** information sufficient to identify the property involved in the appraisal, including the physical and economic property characteristics relevant to the assignment.[509] Examples of information to summarize might include condition, style, size, quality, manufacturer, author, materials, origin, age, provenance, alterations, restorations, and obsolescence.

5. SR 8-2(a)(v): **State** the property interest being appraised

6. SR 8-2(a)(vi): **State** the type of value being developed, its definition, and the source of the value definition.

   Comment: Stating the definition of value also requires any comments needed to clearly indicate to the intended users how the definition is being applied.

   When reporting an opinion of value, state whether the opinion of value is:

   - *in terms of cash or of financing terms equivalent to cash; or*
   - *based on non-market financing or financing with unusual conditions or incentives.*

   When an opinion of value is based on non-market financing terms or financing with unusual conditions or incentives, ***summarize*** *the terms of such financing and any*

[509] See this book's Chapter 3 section entitled *Inspection vs. Non-Inspection* for a more detailed discussion of "relevant characteristics" which include quality characteristics as well as economic and physical characteristics.

influences on value.

When an opinion of reasonable exposure time has been developed in compliance with Standards Rule 7-2(c), the opinion must be stated in the report.

7. SR 8-2(a)(vii): **State** the effective date of the appraisal and the date of the report.

   The effective date of the appraisal establishes the context for the value opinion, while the date of the report indicates whether the perspective of the appraiser on the market or property as of the effective date of the appraisal was prospective, current, or retrospective.

8. SR 8-2(a)(viii): **Summarize** the scope of work performed to develop the report.[510]

   Summarizing the scope of work includes disclosure of research and analyses performed and might also include disclosure of research and analyses not performed.

   Because intended user's reliance on an appraisal may be affected by the scope of work, the report must enable them to be properly informed and not misled.

9. SR 8-2(a)(ix): **Summarize** the extent of any significant personal property assistance provided by other appraisers. In an assignment involving appraisers providing expertise in different specialties (e.g., antiques, fine art, or machinery and equipment), disclose the role of each appraiser signing the certification. In accordance with SR 8-3(a), the signing appraiser must also state the name(s) of those providing significant personal property appraisal assistance in the certification.

10. SR 8-2(a)(x)(1): **Summarize** the appraisal methods and techniques employed.

11. SR 8-2(a)(x)(2): **State** the reasons for excluding any of the approaches to value if any had been considered but were not been developed.

    While the appraiser must indicate which approach(es) to value were used (i.e., sales comparison approach, cost approach, and/or income approach), USPAP also requires the appraiser to **explain** which approaches were excluded. The term "explain" is not defined in USPAP and, therefore, has no special meaning as it pertains to USPAP; however, the dictionary definition of "explain" is "to give the reason for or cause of."[511]

    Simply stating that an approach was not developed does not meet the USPAP requirement to explain why it was not developed. Stating that an approach was not necessary, without providing some basis for that opinion also fails to meet the definition of explain. The report must explain why an excluded approach is not necessary for credible results...The USPAP requirement to include an

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[510] Though it often is, there is no requirement that the scope of work be contained in a separate section of the report (USPAP AO-28 *Scope of Work Decision, Performance, and Disclosure*).

[511] Some appraisers merely state that an approach was considered but not developed. Other appraisers state that they do not consider a particular approach necessary for credible results, thus it has not been developed. But neither of these treatments satisfies USPAP's requirement to **explain** why an approach was excluded.

> *explanation for the exclusion of an approach to value from the analysis is necessary to provide the client and other intended users with insight into the appraiser's decision as to why the analysis was not performed.* (USPAP 2020-2021 USPAP FAQ #314)[512]

12. SR 8-2(a)(x)(3): **Summarize** the results of analyzing the subject property's sales, agreements of sale, options, and listings when, in accordance with Standards Rule 7-5, if it was necessary for credible assignment results and if such information was available to the appraiser in the normal course of business.

13. SR 8-2(a)(x)(4): State the value opinions and conclusions.

14. SR 8-2(a)(x)(5): **Summarize** the information analyzed and the reasoning that supports the analyses, opinions, and conclusions, including reconciliation of the data and approaches.

    The appraiser must provide sufficient information to enable the client and intended users to understand the rationale for the opinions and conclusions, including reconciliation of the data and approaches.[513] Describe the markets chosen to explore, a description of the comparable sales data used as a basis for the appraiser's value conclusions, how those comparable properties compared with the subject property, what adjustments, if any, in value were made to reflect dissimilarities between the comparable and subject properties, etc.

    Appraisal reports lacking the proper analysis summary are open to questions whether the proper analysis was performed in developing the appraisal.

    TIP: for donation appraisals, use the IRS guidance in Appendix BB *Guidance for Donation Appraisals of Art Valued Over $50,000—Object Identification* of this book to describe the basis for your opinion of value (i.e., your reasoning, comparable market data, etc.) for **any** donation appraisal. This guidance states, in part:

    > [For donation appraisals] *The appraisal* [report] *of each work should provide the basis or reasoning as to how the appraiser arrived at the individual appraised value. Individual comparable sales should be included. These sales should be analyzed in terms of quality, etc. and discussed as to how they relate to the subject property. The item discussion should include commentary regarding any special conditions or circumstances about the property, and a discussion of the quality or importance of the property in relation to other works of art by the same artist, and of the state-of-the-art market at the time of valuation. Whenever possible, statements should be supported with factual evidence.*

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[512] See Appendix L *Sample Appraisal Transmittal Letter for a Noncash Charitable Contribution* and Appendix M *Sample Appraisal Transmittal Letter for Acquiring Replacement Value Insurance Coverage for Scheduled Property* for example explanations for the exclusion of the various approaches to value.
[513] See USPAP SR 7-6 for the related development requirements.

15. SR 8-2(a)(xi): **State**, as appropriate to the class of property and if necessary for credible assignment results, the manner in which the property is being used as of the effective date of the appraisal and the use of the property as reflected in the appraisal.[514]

    > *Comment: In the context of personal property, value can be a function of the current and alternative use of the subject property, the choice of the appropriate market or market level for the type of item, the type and definition of value, and intended use of the report.* (USPAP SR 8-2(a)(xi))

16. SR 8-2(a)(xii): When an opinion of the appropriate market or market level was developed in compliance with SR 7-3, **state** that opinion and **summarize** the support and rationale for that opinion.[515]

17. SR 8-2(a)(xiii): Clearly and conspicuously **state** any extraordinary assumptions and hypothetical conditions encountered and state that their use might have affected the assignment results.

18. SR 8-2(a)(xiv): **Include** a signed USPAP certification in accordance with SR 8-3.

19. SR 8-1(c): **disclose** any limiting conditions which might have been encountered.

20. SR 8-2: prominently **state** that the assignment makes use of the Appraisal Report option. For instance:

    > *"This appraisal report has been prepared making use of the Uniform Standards of Professional Appraisal Practice (USPAP's) Appraisal Report option."*

In addition to the above twenty elements of information required by USPAP to be in an Appraisal Report, the following two IRS-mandated statements might also be required:

1. At times the Appraisal Report option will be used when preparing noncash charitable contribution appraisals. Recall from the "*Federal Tax Liability Applications"* section of Chapter 4 of this book that for noncash charitable contribution appraisals, the appraisal must contain a declaration such as the following:

   > "*My background, education, experience and membership in professional associations qualify me to make appraisals of the type of property that is the subject of this appraisal. A complete list of my qualifications can be found in my Professional Profile which is attached to this report. I understand that my appraisal will be used for income tax purposes."*

2. What is more, Treasury Regulation §1.170A-17(a)(3)(vi) also requires that a qualified appraisal includes the following declaration by the appraiser regarding overvaluations:

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[514] An example could be an item of machinery that is currently part of a going concern; however, the valuation in the appraisal reflects a liquidation value for the business considered as defunct.

[515] The appraiser must recognize that there are distinct levels of trade (measurable marketplaces) and each may generate its own data. For example, a property may have a different value at a wholesale level of trade, a retail level of trade, or under various auction conditions. Therefore, the appraiser must analyze the subject property within the correct market context. (USPAP SR 7-3(b))

> *I understand that my appraisal will be used in connection with a return or claim for refund. I also understand that, if there is a substantial or gross valuation misstatement of the value of the property claimed on the return or claim for refund that is based on my appraisal, I may be subject to a penalty under section 6695A of the Internal Revenue Code, as well as other applicable penalties. I affirm that I have not been at any time in the three-year period ending on the date of the appraisal barred from presenting evidence or testimony before the Department of the Treasury or the Internal Revenue Service pursuant to 31 U.S.C. 330(c).*

Supplemental reading:

- USPAP Standards Rule 8-2(a) (content of a Restricted Appraisal Report)
- USPAP Advisory Opinion *38 Content of an Appraisal Report and Restricted Appraisal Report*

Required Content When Using the "Restricted Appraisal Report" Option



(Note that this entire section has been updated.)

The content of a Restricted Appraisal Report must be appropriate for the intended use of the appraisal and must satisfy the needs of the client and other named intended users. As required by USPAP SR 8-2(b), at a minimum, Restricted Appraisal Reports must contain the following twenty-two elements of information, all of which (other than #15) need only be "stated" rather than "summarized":

1. SR 8-2(b)(i): **State** the identity of the client, or if the client requested anonymity, state that the client's identity is withheld at the client's request but is retained in the appraiser's workfile. In such cases, avoid violating the confidentiality obligations of USPAP

   > *Comment: Because the client is an intended user, they must be identified in the report as such. However, if the client has requested anonymity the appraiser must use care when identifying the client to avoid violations of the Confidentiality section of the ETHICS RULE.*

2. SR 8-2(b)(ii): **State** the identity of any other intended user(s) **by name**.

   > *Comment: A Restricted Appraisal Report may be provided when the client is the only intended user; or, when additional intended users are identified by name.*
   >
   > *A party receiving a copy of a Restricted Appraisal Report in order to satisfy disclosure requirements does not become an intended user of the appraisal unless the appraiser identifies such party as an intended user as part of the assignment.*

3. SR 8-2(b)(iii): Clearly and conspicuously **state** a restriction that limits use of the report to the client and the named intended user(s).

4. SR 8-2(b)(iv): Clearly and conspicuously **warn** that the report may not contain supporting rationale for all of the opinions and conclusions set forth in the report.

5. SR 8-2(b)(v): **State** the intended use of the appraisal.

6. SR 8-2(b)(vi): **State** information sufficient to identify the property.[516]

7. SR 8-2(b)(vii): **State** the property interest being appraised.

8. SR 8-2(b)(viii): **State** the type of value being developed along with the source of its definition.[517]

9. *Comment* to SR 8-2(b)(viii): **State** your opinion of reasonable exposure time, if such an opinion was developed.

   *Comment: When an opinion of reasonable exposure time has been developed in compliance with Standards Rule 7-2(c), the opinion must be **stated** in the report.*

10. SR 8-2(b)(ix): **State** the effective date of the appraisal and the date of the report.

    The effective date of the appraisal establishes the context for the value opinion, while the date of the report indicates whether the perspective of the appraiser on the market or property as of the effective date of the appraisal was prospective, current, or retrospective.

11. SR 8-2(b)(x): **State** the scope of work.[518]

    Comment: Stating the scope of work includes disclosure of research and analyses performed and might also include disclosure of research and analyses not performed.

12. SR 8-2(b)(xi): **State** the extent of any significant personal property appraisal assistance provided by other appraisers.

13. SR 8-2(b)(xii)(1): **State** the appraisal methods and techniques employed.

14. SR 8-2(b)(xii)(2): **State** the reasons for excluding any of the approaches to value if any had been considered but were not been developed.

    While the appraiser must indicate which approach(es) to value were used (i.e., sales comparison approach, cost approach, and/or income), USPAP also requires the appraiser

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[516] Unlike for the Appraisal Report option, there is no need in a Restricted Appraisal Report to address the quality, economic and physical characteristics in the report although such mention should be made in the workfile.

[517] In a Restricted Appraisal Report it is not necessary to state the value definition—only the source of the definition.

[518] Though it often is, there is no requirement that the scope of work be contained in a separate section of the report (USPAP AO-28 *Scope of Work Decision, Performance, and Disclosure*).

to **explain** which approaches were excluded.[519] The term "explain" is not defined in USPAP and, therefore, has no special meaning as it pertains to USPAP; however, the dictionary definition of "explain" is "to give the reason for or cause of."

> *Simply stating that an approach was not developed does not meet the USPAP requirement to explain why it was not developed. Stating that an approach was not necessary, without providing some basis for that opinion also fails to meet the definition of explain. The report must explain why an excluded approach is not necessary for credible results...The USPAP requirement to include an explanation for the exclusion of an approach to value from the analysis is necessary to provide the client and other intended users with insight into the appraiser's decision as to why the analysis was not performed.* (USPAP 2020-2021 USPAP FAQ #313)[520]

15. SR 8-2(b)(xii)(3): **Summarize** the results of analyzing the subject property's sales, agreements of sale, options, and listings when, in accordance with Standards Rule 7-5, such information is obtainable and relevant.[521]

16. SR 8-2(b)(xii)(4): State the value opinion(s) and conclusion(s).

    Comment: An appraiser must maintain a workfile that includes sufficient information to indicate that the appraiser complied with the requirements of STANDARD 7 and for the appraiser to produce an Appraisal Report.[522]

17. SR 8-2(b)(xiii): **State**, as appropriate to the class of property and if necessary for credible assignment results, the manner in which the property is being used as of the effective date of the appraisal and the use of the property as reflected in the appraisal.[523]

    Comment: In the context of personal property, value can be a function of the current and alternative use of the subject property, the choice of the appropriate market or market level for the type of item, the type and definition of value, and intended use of the report.

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[519] Some appraisers merely state that an approach was considered but not developed. Other appraisers state that they do not consider a particular approach necessary for credible results, so thus it has not been developed. But neither of these treatments satisfies USPAP's requirement to **explain** why an approach was excluded.

[520] See Appendix L *Sample Appraisal Transmittal Letter for a Noncash Charitable Contribution* and Appendix M *Sample Appraisal Transmittal Letter for Acquiring Replacement Value Insurance Coverage for Scheduled Property* for example explanations for the exclusion of the various approaches to value.

[521] According to the ASB, this Standards Rule will be modified in the next USPAP cycle (2022-2023) with the addition of the missing "if necessary for credible assignment results…" caveat in order to mirror SR 8-2(a)(x)(3).

[522] The requirement to maintain a workfile sufficient to produce a written Appraisal Report in the future will require significant documentation of property descriptions sufficient to enable the appraiser to recall the subject property's relevant characteristics. This might entail making audio recordings of all oral appraisal assignments, or having an assistant or perhaps the client keep a written record of the appraiser's oral remarks.

[523] An example could be an item of machinery that is currently part of a going concern; however, the valuation in the appraisal reflects a liquidation value for the business considered as defunct.

18. SR 8-2(b)(xiv): When an opinion of the appropriate market or market level was developed, **state** that opinion.[524]

19. SR 8-2(b)(xv): **Clearly and conspicuously state** any extraordinary assumptions and hypothetical conditions encountered and state that their use might have affected the assignment results.

20. SR 8-2(b)(xvi): **Include** a signed USPAP certification in accordance with SR 8-3.

21. As per SR 8-1(c) **disclose** any limiting conditions which might have been encountered.

22. As per SR 8-2 *Content of a Personal Property Appraisal Report* prominently **state** that the assignment makes use of the Restricted Appraisal Report option. For instance:

    "This appraisal report has been prepared making use of the Uniform Standards of Professional Appraisal Practice (USPAP's) Restricted Appraisal Report option."

Supplemental reading:

- USPAP Standards Rule 8-2(b) (content of a Restricted Appraisal Report)
- USPAP Advisory Opinion *38 Content of an Appraisal Report and Restricted Appraisal Report*

Best Practices: Optional but Recommended Content for all Appraisal Reports

While USPAP dictates the minimum content for appraisals, through years of experience with litigation, damage claims, and federally-related appraisals, it has been found beneficial to also include the following information in your appraisal reports as "best practices":

1. So long as the client does not consider it to be "confidential information," include the street location of the property being appraised at the time the appraisal inspection was conducted. If the property was located at more than one location, list all locations.

2. Include the names of the responsible parties who were present at the time of inspection. Most often this is your client or the client's agent. At other times, it might be a client's relative or even a next-door neighbor.

3. Include the name of the person or entity understood to be the owner of the property.[525] Include also a statement that no investigation into ownership has been made, and that possession of the appraisal report is not an indication of ownership of or title to the property listed in the appraisal report.

4. Include a statement of confidentiality acknowledging the confidential nature of the appraiser-client relationship.

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[524] For a Restricted Appraisal Report there is no need to explain your support and rationale for that opinion—merely **state** your opinion regarding appropriate market or market level.
[525] The owner of the subject property is often, but not always, the client.

5. For the benefit of the client and other intended users, include any applicable reference numbers, e.g., case numbers, insurance claim numbers, police report number etc., if any apply.

6. Define any grading scale term or condition code that might have been used in the description of an item. Attach a copy of the complete grading scale so the reader can put the grade/condition of the subject property in context with the full range of possible grades/conditions.

7. Often the vocabulary that appraisers use includes words not frequently encountered by clients or other intended users. For such seldom-used terms or for foreign terms, follow the term with its definition/translation enclosed within parenthesis.

8. State in the report any disclaimers or terms of use associated with the assignment which limit the appraiser's liability or restricts the method in which the appraisal report can be used or reproduced. Doing so documents the limits of the appraiser's responsibilities and liabilities, and it puts all readers on notice of how and by whom the appraisal report can and cannot be used.[526]

9. If doing a donation appraisal, include a statement regarding the handling of IRS Form 8283 to ensure you have the opportunity to properly complete those sections for which you are responsible and to eventually sign the form's "Declaration of Appraiser."

10. Attach the professional qualifications of the signing appraiser and of assisting appraisers (if any) to the appraisal report. There is no USPAP requirement that the appraisal report contains the appraiser's qualifications (2020-2021 USPAP FAQ #328). However, the IRS has such requirements related to donation appraisals, and personal property appraisal societies may have related requirements as well. Therefore, it is considered a best practice to attach your professional profile to all assignment reports.

Optional Report Design Features

To enhance the usefulness and professional look of appraisal reports, appraisers may choose to add optional features to the report including the following:[527]

1. **Report binder or cover**. An appraisal report cover or binder provides a professional appearance to the report. It has the added benefit of securing all relevant parts of the report together to help ensure that no parts are removed or lost. Not all clients want their reports bound as it might make it difficult to file the report. Ask before using a report binder.

2. **Title page**. The title page is used to create a professional image and might contain your company name, logo and contact information, name of client, date and intended use of the appraisal. Use company letterhead for the title page.

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[526] See the section entitled *Disclaimers and Terms of Use* in Chapter 6.

[527] Personally, I seldom use a Table of Contents or a Value Summary Page. For litigation assignments, I do typically make use of a Title Page, but I do not use a Report Binder/Cover as I usually deliver my reports formatted as a PDF file and attached to an email.

3. **Table of contents page**. A table of contents contains a paginated list of the various components or sections of the appraisal report. A table of contents is primarily used with larger appraisals, or where an appraisal format is employed that makes use of complex methods to organize the report in a manner that improves its readability and understandability. In such instances, a table of contents will aid the reader in quickly locating the information being sought. Use company letterhead if not using a title page and the table of contents is your first page. If using a title page which is on letterhead, the table of contents need not be on letterhead.

   Making use of the pagination scheme described earlier, my Table of Contents would look like the following for a typical insurance coverage appraisal report that makes use of a title page, table of contents, value summary page, the transmittal letter and three enclosures:

page ii

Table of Contents

Title Page i
Table of Contents ii
Value Summary Page iii
Transmittal Letter ..... pgs 1-6
Enclosure 1: Valuation Section
Furniture ..... Enc. 1, pgs 1-4
Silver ..... Enc. 1, pgs 5-7
Glass ..... Enc. 1, pgs 8-12
Ceramics ..... Enc. 1, pgs 13-14
Enclosure 2: Appraiser's Professional Profile ..... Enc. 2, pgs 1-2
Enclosure 3: High Resolution Images on CD ..... Enc. 3

4. **Value summary page**. A value summary page lists the appraised items according to category with a total value given for each category. Items might be listed by type (glass, furniture, clocks, jewelry, etc.), whether marital or non-marital, by room location, or according to any other category the client might request. Use as needed. The value summary page need not be on letterhead when used in conjunction with a title page and/or a table of contents page.

Pagination

As another example of best practice, paginate all pages using the “page X of Y” format. I put the pagination in the header along with other header information such as the client’s name, date of the report, or the title of the enclosure. Be sure to reference all un-paginated enclosures (such as a grading report received from a third-party) somewhere in the appraisal report. Doing so will help ensure that missing parts do not go unnoticed and that the appraisal report is used only in its entirety as was intended and as is required.

While I use the generic “page X of Y” pagination scheme throughout my report, the various parts of my appraisal report will display the pagination in slightly different ways. For instance:

- The front matter (e.g., title page, table of contents and value summary page) can be paginated using Roman numerals, e.g., *i, ii,* etc.

- My six-page transmittal letter will use the traditional pagination of "*page 1 of 6*", "*page 2 of 6*", "*page 3 of 6*", etc.

- My first enclosure is my Valuation Section. Assuming it to be fourteen pages long, it will be titled in the header "*Enclosure 1: Valuation Section*" and paginated "*page 1 of 14*", "*page 2 of 14*", "*page 3 of 14*", etc.

- Subsequent enclosures follow suit. For instance, my second enclosure is my two-page professional profile. It will be titled in the header "*Enclosure 2: Professional Profile of Robert Appraiser, AZA*" and paginated "*page 1 of 2*" and "*page 2 of 2*".

Many appraisers use a pagination system which simply numbers pages "page X of Y" straight through the report from beginning to end regardless of whether the page is part of the transmittal letter or is part of an enclosure such as the Valuation Section enclosure. That is OK, too. Just remember to reference unpaginated attachments by name on a page (normally in the transmittal letter) that **is** paginated so that it will be apparent if the unpaginated attachment goes missing from the appraisal report.[528]

Appraisal Report Structure

There is no single approved format for personal property appraisal reports, nor is there a required method of presenting information within the document. USPAP STANDARD 8 *Personal Property Appraisal, Reporting* states:

> *STANDARD 8 does not dictate the form, format, or style of personal property appraisal reports, which are functions of the needs of intended users and appraisers. The substantive content of a report determines its compliance* [with USPAP].

Appraisal reports must be written with the needs of the client and other intended uses in mind, and typically contain a logical and understandable presentation of the required elements of information. Appraisers usually choose to prepare a narrative **letter-style** appraisal report.[529] Other appraisers might make use of a **form-style** appraisal report, which, while the norm among real property appraisers, is much less often used by the personal property appraiser.

Letter-Style Report

A narrative **letter-style report** has the look and feel of a formal letter. Using 8 1/2" x 11" stock (legal size paper is no longer used), it begins with the transmittal letter on company letterhead. The transmittal letter is complete with salutation, body, the USPAP certification, signature and

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[528] Remember, USPAP STANDARD 8 *Personal Property Appraisal, Reporting* does not dictate the form, format or style of appraisal reports; nor does USPAP require pagination, though I think it is a best practice to do so as when discussing a report, making reference to a document having page numbers is much easier than a document without.

[529] See Appendix L *Sample Appraisal Transmittal Letter for a Noncash Charitable Contribution* and Appendix M *Sample Appraisal Transmittal Letter for Acquiring Replacement Value Insurance Coverage for Scheduled Property* for sample appraisal transmittal letters.

enclosures. My preference is to use the popular “block format business letter” style, a description of which is in Appendix FF. The block format style is the simplest format: all of the writing is flush against the left margin. Addenda and other attachments to business letters are referred to as “Enclosures.”

Valuation Section Enclosure

The primary enclosure that is attached to an appraisal report’s transmittal letter is the **Valuation Section** enclosure of the report.[530] The Valuation Section includes the item-specific information such as item descriptions, values, thumbnail images and maybe even comparable market data (and their analysis) on which values were based if making use of a USPAP Appraisal Report option that needs to contain supporting rationale. Often the Valuation Section contains a four-column table having the item number in the first column, the item description, comparable market data and other supporting rationale in the second column, a thumbnail image in the third column, and the appraiser's opinion of value in the fourth column.

Other Enclosures

Also attached to the transmittal letter as enclosures would be other addenda to the report which might include the appraiser's professional profile. Other enclosures might include photographs or a USB flash drive containing high-resolution images of the subject property, a bibliography of reference resources, and any other supporting documentation necessary to make the report complete and understandable.[531]

Form-Style Report

A **form-style report** is prepared in sections according to a pre-designed format, with each section appropriately titled and addressing the relevant elements of information it is designed to contain. Form-style reports allow the appraisal to be communicated in a standardized format. They also help ensure that all necessary information is included in the report, and they allow the client to easily and quickly review the important information—thus their popularity within the discipline of real property appraising where form-style reports are standardized throughout much of the industry.[532]

For the personal property appraiser, however, form-style appraisals are not standardized and may restrict the appraiser's ability to tailor the report to the specific assignment conditions, intended use of the report, unique needs of intended users or to the necessary scope of work. Accordingly, form-style appraisals are not as popular among personal property appraisers as is the more flexible narrative letter-style report format.

Three Categories of Information

Regardless of which appraisal report style is used, in general terms, all appraisal reports must contain three categories of information:

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[530] See Appendix N *Sample Appraisal Valuation Section*

[531] In lieu of using USB flash drives, images are frequently provided to the client via email attachments or by means of a personal cloud storage service such as Dropbox.

[532] See Appendix Z *Real Estate Appraisal Form* for an example of a real estate form-style report.

1. **Appraisal**-specific information
2. **Item**-specific information
3. **Supporting documentation**

Appraisal-Specific Information

Appraisal-specific information is that information which applies to the entire appraisal assignment (as opposed to information that applies only to an individual item being appraised) and which includes such information as that required by USPAP Standards Rule 8-2 *Content of a Personal Property Appraisal Report*. For federal tax-related appraisals, appraisal-specific information also includes certain IRS-mandated information required in order for the report to be considered by the IRS to be a "qualified appraisal."

In a letter-style report, appraisal-specific information is typically contained in what is referred to as a **transmittal letter**.[533]

Appraisal-specific information in my transmittal letter typically includes the following. Those elements required by USPAP[534] or the IRS are so noted—others are what I consider to be best practice:

- Report option employed (Appraisal Report or Restricted Appraisal Report) (USPAP)
- Applicable reference numbers, file numbers or case citations, if any (best practice)
- Location of the property at time of inspection (best practice)
- Responsible parties present at inspection (best practice)
- Identity of the client and any other intended user (USPAP)
- Identify the property being appraised and the property interest being appraised (USPAP)
- Intended use of the appraisal (USPAP)
- Value type and definition[535] and its source citation (USPAP)
- Relevant dates
    - Date of inspection (IRS)
    - Effective date of the appraisal (USPAP)

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[533] See examples of transmittal letters in Appendix L *Sample Appraisal Transmittal Letter for a Noncash Charitable Contribution* and Appendix M *Sample Appraisal Transmittal Letter for Acquiring Replacement Value Insurance Coverage for Scheduled Property.*

[534] Use USPAP SR 8-1(b) as important guidance. It requires that the appraisal report "contain sufficient information to enable the intended users of the appraisal to understand the report properly"

[535] The **definition** of value type employed is required only for the Appraisal Report Option. It is not required for the Restricted Appraisal Report option.

  - Date of the report (USPAP)

- Description of scope of work actually performed (USPAP)

  - Inspection conducted
  - Research performed
  - Assistance provided by other appraisers, experts, consultants. The identity of assisting "appraisers" providing significant assistance, if any, must also be stated in the certification.

- Explanation of approach(es) to value used and those excluded (USPAP, IRS)

- If required in order to achieve credible assignment results, a summary of the results of analyzing the subject property's sales, agreements of sale, options, and listings when, in accordance with Standards Rule 7-5 *Sale Agreements, Options, Listings, and Prior Sales* (USPAP)

- Value opinion(s) and conclusion(s) (USPAP, IRS)

- Information analyzed and the reasoning that supports the analyses, opinions, and conclusions (USPAP, IRS)

- Statement, as appropriate to the class of personal property involved, of the property's existing use as well as its use as of the effective date of the appraisal. (USPAP)

- When developed, an opinion of the most appropriate market or market level, and the rationale for that opinion (USPAP)

- Appraisal-specific assumptions as well as assignment conditions encountered such as (USPAP)

  - Limiting conditions
  - Hypothetical conditions (conspicuously)
  - Extraordinary assumptions (conspicuously)
  - Jurisdictional exceptions
  - Other assignment conditions, but only if they affected scope of work

- Disclaimers and Terms of Use (best practice)

- Statement of confidentiality (best practice)

- Appraiser-signed certification (USPAP)

- For noncash charitable contribution appraisals:
  - A declaration of the appraiser's qualifications, that the appraisal is for income tax purposes, and that the appraiser is aware of Internal Revenue Code section 6695A penalties for gross overvaluations *(IRS)*
  - Terms of any agreement between the taxpayer and donee relating to the use, sale or other disposition of the donated property, i.e., encumbrances (IRS)

  - Signature, name, address and taxpayer identification number of the qualified appraiser (IRS Form 8283, Section B)
  - A statement regarding the enclosure and handling of IRS Form 8283 to help ensure that it is properly completed (best practice)

- Statement that the report was transmitted electronically, if applicable (best practice)

Item-Specific Information

Item-specific information is that information which pertains specifically and solely to the individual item being appraised (as opposed to the overall appraisal assignment). For **letter-style** reports, item-specific information is commonly contained in a four-column table within a separate **Valuation Section** of the report which would be attached to the transmittal letter as an enclosure. Some refer to the Valuation Section as the "body of the report."[536], [537]

Included in item-specific information are:

- Description of the property sufficient to identify the property involved in the appraisal including relevant property characteristics as required given the report option employed, the type of property and the intended use of the report (USPAP, IRS)
  - Identity of the property or property type
  - Identify the relevant property characteristics

- A description of authentications, grading reports or tests performed, if any (USPAP SCOPE OF WORK RULE)

- Description of item-specific assistance provided by other appraisers, experts, consultants, if any (USPAP SCOPE OF WORK RULE)

- Significant information, if any, regarding the subject property provided by the client or others on which the appraiser's opinions, analyses or conclusions were contingent (USPAP SCOPE OF WORK RULE)

- Item-specific limiting conditions, hypothetical conditions or extraordinary assumptions encountered, if any (USPAP)

- Comparable market data (if required to be included within the report) (USPAP, IRS)

- Commentary on market and value issues (if item-specific in nature and if required by the intended use of the report such as for a donation appraisal) (USPAP, IRS)

  For donation appraisals (especially for those valued in excess of $50,000 per item), use the IRS guidance in Appendix BB to describe the basis for your opinion of value (i.e., your reasoning, comparable market data).

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[536] See Appendix N *Sample Appraisal Valuation Section*.

[537] When appraising only a few items, I eschew the use of a Valuation Section enclosure. Instead, I embed the item-specific information (item name, description, value, thumbnail if need be, etc.) into the transmittal letter itself.

- Thumbnail images are often added along with the item descriptions for ready-reference. The thumbnails are in addition to pages of photographs or high-resolution images on a USB flash drive which are often included in the below-mentioned supporting documentation. (best practices)

Supporting Documentation

Supporting documentation consists of **addenda** which are attached as enclosures to the report. Addenda consists of any supplementary information that is either required to be included in an appraisal or that otherwise facilitates the understanding of the report including:

- The appraiser's qualifications
- Qualifications of appraisers providing significant personal property appraisal assistance
- Copies of authentications, grading reports or tests performed
- Glossary of unusual terms or abbreviations used (but only if extensive; otherwise include parenthetically within the narrative)
- Bibliography of reference resources
- List of exhibition history or citations in literature for appraised items
- Artist chronology
- Grading scales or condition codes used
- Diagrams or sketches (such as might be used by a gemologist/appraiser when plotting a diamond)
- Photographs of the subject property or high-resolution images on a USB flash drive. (These are in addition to the thumbnail images often included in the above-mentioned Valuation Section enclosure of the report.)
- IRS Form 8283 for donation appraisals. Note that while I might choose to enclose an IRS Form 8283 and to even mention the form in the transmittal letter, I do not permanently attach it to the report because it is not part of the appraisal. I enclose it as a loose document as a convenience to the client/taxpayer, but Form 8283 is the taxpayer's responsibility to submit with the his or her return. **It is not part of the appraisal report**.

Appraiser Has Great Flexibility in Report Design

As a good example of the flexibility of USPAP, STANDARD 8 *Personal Property Appraisal, Reporting,* states that USPAP does not:

> *"dictate either the form, format or style of appraisal reports., which are functions of the needs of intended users and appraisers. The substantive content of a report determines its compliance."*

Instead, the design of the report is left up to the appraiser. And, according to STANDARD 4 *Appraisal Review, Reporting,* the same holds true for appraisal review reports—USPAP refrains from dictating form, format or style.

Subdividing reports into various parts and what the appraiser calls those parts is inconsequential. Whatever the terms that are used (be it cover letter, valuation section, addenda, transmittal letter, cover document, body of the appraisal, form-style report, letter-style report, etc.), the focus should not be on nomenclature of appraisal parts; rather, as intended by USPAP, the focus should be on the appraiser learning the proper way to develop his or her opinions and conclusions and then reporting those assignment results in accordance with SR 8-2(a) when using the Appraisal Report option, in accordance with SR 8-2(b) when using the Restricted Appraisal Report option, SR 8-4 *Oral Appraisal Report* for oral personal property appraisal reports, and in accordance with SR 4-2 *Content of an Appraisal Review Report* for appraisal review reports.

The form and style of the appraisal report have nothing to do with USPAP compliance. It is the content of the report that determines whether or not the appraiser has met his or her USPAP compliance obligations.

While USPAP does not dictate form, format or style of a report, I find it useful for this Chapter 11 discussion regarding teaching the techniques of writing an appraisal report to demonstrate the material by use of an appraisal writing method that is commonly used by many professional personal property appraisers – the letter style appraisal report.

Regardless, use the report form/format/style with which you are most comfortable. Note, though, that appraisers who belong to a professional appraisal society may be obligated to conform to supplemental report form/content requirements imposed by their society despite there being no basis for those additional requirements found in USPAP itself.[538]

Transmittal Letter

The letter style method makes use of what I refer to as the "transmittal letter" to contain much (if not all) of the USPAP-required elements of information.[539]

The transmittal letter is on company letterhead and contains the appraisal-specific information listed in the preceding section. It is, therefore, very much an integral part of the report.

2020-2021 USPAP FAQ #302 provides commentary regarding the use of transmittal letters:

> ***Question****: I recently completed an appraisal report that included a letter of transmittal as part of my report. Some of the items required to comply with the reporting requirements of USPAP appear only in the letter of transmittal. My client states that a letter of transmittal is not part of the appraisal report, and these items must appear within the body of the report to comply with USPAP. Is my client correct?*

[538] CAUTION: Appraisal societies must ensure that any report requirements placed upon their members must not be so onerous as to prevent the appraiser from meeting his or her USPAP compliance requirements in the flexible manner as permitted and intended by USPAP.
[539] Appendix L (for noncash charitable contribution purposes) and Appendix M (for insurance coverage purposes) are examples of transmittal letters.

> ***Response****: No, the client is not correct. Although a letter of transmittal is not required by USPAP, there is nothing in USPAP that prohibits making a letter of transmittal part of the appraisal report. It should be noted that USPAP does require an appraiser signing any part of an appraisal report, including a letter of transmittal, to also sign the certification.*

Note that any **required** elements of information that are **not** included in the transmittal letter **must** be included in enclosures to the transmittal letter (such as item-specific information including opinions of value being stated in the Valuation Section enclosure) or in other attached addenda such as third-party grading reports, grading scales, or the appraiser's professional profile.

Cover Letter

I also make use of a cover letter. A cover letter is a brief, formal letter on company letterhead used simply to accompany another document being sent to the recipient. A cover letter often introduces and summarizes the conveyed document and/or addresses other related issues. Take caution, though. The cover letter can be **discarded** by the recipient (and often is) and doing so should have no impact on the completeness, understandability or credibility of the remaining report. Therefore, the cover letter must not contain required either appraisal- or item-specific information or supporting documentation **that is not also included somewhere else in the report itself**.

If used, a cover letter should NOT be paginated nor should it be permanently attached to the report as it is **not** part of the report. It merely accompanies the report.

In effect, the cover letter simply states:

> *Dear Mr. Smith:*
>
> *Enclosed is the appraisal report you requested that I prepare for you. Thank you for allowing me to be of service. Please do not hesitate to contact me if I can be of further assistance.*
>
> *Sincerely,*
>
> *Joe Appraiser*

While the above might be a bit abbreviated, the cover letter need not contain much more. Indeed, it should be no more than one page in length. If needed, however, the appraiser may wish to also include within the cover letter:

- A brief summary of the appraiser's findings.

  Note that if you include a "summary" of your value conclusion within the cover letter, to avoid confusion or a possible misuse of the cover letter (cover letters have been known to be inappropriately used as a substitute for the appraisal report), you should also include in the cover letter a statement such as:

This cover letter is not the appraisal report. It is merely a means to convey the enclosed appraisal report to you.

- A comment on the fact that the appraiser sent a copy of the report to XYZ as the client had requested.
- That an IRS Form 8283 and/or the appraiser's invoice for the balance due is enclosed.
- A note of thanks for having used the appraiser's services.
- Other administrative matters that need to be addressed.

Sample Appraisal Reports

This book offers sample appraisal report formats and wording for demonstration purposes only. The sample appraisal formats or wording offered below, in Appendices L and M sample transmittal letters, and in Appendix N *Sample Appraisal Valuation Section* represent only some of the many ways to present the necessary information in a logical and systematic manner. Students are free to make use of the samples as they wish but are cautioned against using fixed **boilerplate** or using report templates without proper editing.

While fixed boilerplate should never be used when preparing the assignment report, report **templates** are useful. Templates help ensure completeness, help minimize liability and save time. Most appraisers design several templates—one each for insurance, donation, estate, divorce, litigation, damage claims, etc.

The challenge is to modify the template for each and every assignment by inserting relevant assignment-specific information while at the same time removing irrelevant information that does not apply to the assignment at hand.

I cannot emphasize strongly enough the need to closely edit each word of each sentence of each paragraph of each report you prepare when using templates. I also discourage you from "puffing" your report by including needless boilerplate. If you did not use the sampling technique, then do not include a boilerplate statement such as "When an appraisal is made on a sample of the whole..." If your opinions are not contingent on information provided by others, then do not include a statement "Where the appraisal is contingent upon the validity of statements, data or documentation supplied by the client or others..." If you are appraising only a single item, be sure to change such innocuous clauses as "My opinions of value were based on ..." to "My opinion of value was based on ..."

My personal choice regarding the overall format of my appraisals is to use a layout design which has these benefits:

- The USPAP-centric section headers highlight the important elements of information, thus making the report more understandable.
- The template helps ensure that the report is USPAP-compliant and that the narrative follows USPAP's Appraisal Process, and

- The template helps ensure that I do not inadvertently omit required information. This helps to ensure that the report is complete and comprehensive.

My appraisals typically consist of a transmittal letter and enclosures. My enclosures consist of, at a minimum, a Valuation Section (if more than a few items are being appraised) and my professional profile. When appraising a single item of property, I normally include the item-specific information regarding the sole piece of property within the transmittal letter itself, and forgo the Valuation Section enclosure all together. Additional addenda such as a third-party grading reports can also be included as enclosures, if required.

I may or may not use a title page, table of contents, or a value summary page.

My transmittal letters are divided into sections as indicated below. Most sections are required regardless of the intended use of the report; however, as noted, some sections are required only under certain situations. For instance, certain sections pertaining to the IRS are only required when doing federal tax-liability appraisals, but not otherwise. And the assignment condition section need not be included if no limiting conditions, extraordinary assumptions or hypothetical conditions were encountered.[540]

Report Structure Details

Each section of the transmittal letter has its own header and, taken together, the sections closely follow the steps of the appraisal process as laid out in USPAP STANDARD 7 *Personal Property Appraisal, Development*. In brief, my appraisals usually have the following structure

1. Title Page (if used)
2. Table of Contents (if used)
3. Transmittal Letter[541]
4. Enclosures
    - Valuation Section (see example in Appendix N)[542], [543]
    - Pages with photographs, if needed
    - Appraiser's Professional Profile[544]
    - Other enclosures as needed such as resources references, input from others who might have provided assistance, or a USB flash drive containing high resolution images.

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[540] See Appendix L *Sample Appraisal Transmittal Letter for a Noncash Charitable Contribution* and Appendix M *Sample Appraisal Transmittal Letter for Acquiring Replacement Value Insurance Coverage for Scheduled Property* for examples of my transmittal letter.

[541] The transmittal letter contains the elements of information listed in the above section of this Chapter entitled *Appraisal-Specific Information.*

[542] When appraising only a few items, I eschew the use of a Valuation Section enclosure. Instead, I embed the item-specific information (item name, description, value, thumbnail if need be, etc.) into the transmittal letter itself.

[543] The valuation section contains the elements of information listed in the above section of this Chapter entitled *Item-Specific Information.*

[544] There is no USPAP requirement that the appraisal report contains the appraiser's qualifications; however, some user groups such as the IRS or professional appraiser organizations might require it. (2020-2021 USPAP FAQ #328)

Sample Wording

Using the required and optional elements of information mentioned earlier in this chapter and best practices, here are some examples of how the above transmittal letter elements might be worded. These, of course, are not the only ways to word these elements or to structure the format of a report (e.g., machinery & equipment appraisal reports are often compiled differently). Compose your appraisal report in whatever writing style is most comfortable to you—being sure that the final report is understandable and non-misleading.

a. Executive summary (optional)[545]. Include the names of the responsible parties who were present at the time of inspection along with the date of inspection. Include (if not confidential) the location of the property being appraised at the time the appraisal inspection was conducted. If the property was located at more than one location, list all locations. You may wish to include a brief summary of your final value opinion, as well.

   Here is sample wording for an inspection that was conducted for a property being donated to a museum:

   > *On **[date of inspection]** I conducted an appraisal inspection of **[name of property]** located at **[name and address of donee organization]** in the presence of **[responsible party present, e.g., a museum curator]** in order to identify the subject property and its characteristics relevant to value and marketability so that I could properly develop an opinion of its fair market value for your income tax purposes. I understand that the subject property was donated to **[name of donee organization]** on **[date of donation]**. In summary, the fair market value of the subject property as of its date of donation was **[total FMV]**.*

   And here is an example of an Executive Summary for an appraisal assignment done for a client seeking to obtain insurance coverage:

   > *On **[date of inspection]** I conducted an appraisal inspection of your high-value personal property which was located at **[address]** in the presence of **[responsible party present]** in order to identify the subject property and its characteristics relevant to value and marketability so that I could properly develop an opinion of its replacement value. In summary, the replacement value of all the items appraised and listed within the Valuation Section of this report totals **[total replacement value]** as of the effective date of the appraisal, which is the date of my inspection.*

b. Prominently state which USPAP appraisal report option is being used.



   This appraisal report has been prepared making use of USPAP's Appraisal Report option. [or…*making use of USPAP's Restricted Appraisal Report option.* as the assignment dictates.]

[545] Though optional, I consider an Executive Summary a "best practice."

c. State the identity of the client and other intended users.

> *This report is intended for use only by you (my client), your agent and by **[list other intended users here, e.g.,** the beneficiaries to the estate being appraised.]*
>
> *With the exception of you, your agent and identified intended users listed herein (if any), this appraisal report is not intended to be used by or influence any particular person(s) or class(es) of persons which might take some action in reliance upon it. Unless otherwise stated, I am not aware that you or your agent intend to transmit any information contained in this report to any other person(s) or group(s) other than to the appraiser-identified intended users listed herein. Regardless of who receives a copy of this report, my liability is limited to you and to the identified intended users of this report to the exclusion of all others. Parties other than those specifically listed as authorized intended users of this report who take some action in reliance upon this report do so at their own risk. Note that parties who receive a copy of this report as a consequence of disclosure requirements do not automatically become intended users. Intended users must be identified as such by me at the time of the assignment.*

d. State the intended use of the appraisal. The following might be used for a donation appraisal. Modify as needed for other intended uses.

> *You stated that you will use this report to establish a basis on which to calculate an income tax deduction for a noncash charitable contribution. Any other use of this appraisal report renders it null and void.*

e. State the ownership interest being appraised and whether there are any known liens or other encumbrances on the property. Include the name of the person or entity understood to be the owner of the property. Include also a statement that no investigation into ownership has been made, and that possession of the appraisal report is not an indication of ownership of the property listed in the appraisal.

> *The appraised values are based upon 100% of your interest in the property undiminished by any liens, fractional interests or any other form of encumbrance.*

I also include the following as a best practice to ensure clarity regrading ownership and possession of the appraisal report (the former does not necessarily follow from the latter).

> *I understand that you are the sole owner of the property listed in this report; however, mere possession of this appraisal report is not an indication or certificate of title or ownership. Ownership and ownership interest have been represented to me by you (my client) and no inquiry or investigation has been made nor is any opinion to be given as to the accuracy of such representation.*

f. When using the Appraisal Report option, state the type and definition of value employed, with source citation. (When using the Restricted Appraisal Report option, you need only state the value type and cite the source for the definition. The definition of value itself need not be stated.) Also, state whether value is in terms of cash or otherwise.

The below example is for a donation appraisal. Modify it as necessary if developing an opinion of a different value type, such as replacement value for an insurance appraisal.

> *In this appraisal assignment, I developed an opinion of **[e.g.,** Fair Market Value.**]** Opinions of value are in terms of cash.*
>
> *The definition of Fair Market Value is set forth in Treasury Regulation §1.170A-1(c)(2) which states that the Fair Market Value is "The price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts." Estate Tax Regulation §20.2031-1(b) expands the definition by stating "...nor is the fair market value of an item of property to be determined by the sale price of the item in a market other than that in which such item is most commonly sold to the public, taking into account the location of the item wherever appropriate."*

g. When an opinion of reasonable exposure time has been developed in accordance with SR 7-2(c), state that opinion in the report (USPAP SRs 8-2(a)(vi) and 8-2(b)(viii)).

> *All comparable sales used in this appraisal report as a basis for my opinion of value were assumed to have been exposed to their relevant markets for only seven days prior to sale and that minimal marketing efforts were undertaken to affect said sales.*

h. State the date of the report as well as the effective date of the appraisal.

Relevant dates associated with this assignment include the following:

- ***Date of Inspection**: The subject property was inspected on **[date of inspection]**.*
- ***Effective Date of Appraisal**: Value opinions are effective as the date of the date of donation which you stated was **[date of donation]**.*
- ***Date of the report**: This report was prepared and signed this date, **[date of the report]**.*

i. Describe the scope of work performed in the assignment. There is no requirement that the scope of work be contained in a separate section of the report such as done in the below example. It can be in a separate section, if the appraiser so chooses, or it can be described in various sections throughout the report. Or the work performed can be in both a separate section as well as in other locations. Scope of work is normally appraisal-specific information so it would typically appear in the transmittal letter. But assume I retained an expert to authenticate item #4. This element of my scope of work would more appropriately appear in the Valuation Section enclosure along with the item #4's description and value since I'd consider authentication of item #4 as being item-specific information.

Regardless, do not use a boilerplate (i.e., unedited text) scope of work statement. Be sure to customize your scope of work for each assignment so that the client will be aware of all the research you did and the analyses you applied in order to reach your conclusions. It can take a lot of thought and careful narrative to explain how the scope of work was

sufficient to produce credible assignment results. This is best done by clearly explaining by means of the scope of work how the requirements of USPAP STANDARD 7 *Personal Property Appraisal, Development* were properly considered and satisfied. Here is an example:

> *Scope of work is defined by USPAP as the work actually performed in order to develop credible assignment results. The scope of work employed in this assignment was dependent upon the needs of the client, the intended use of the report, the definition of value that I used, the effective date of the report, and the subject property's characteristics relevant to value and marketability. The scope of work for this assignment included:*[546]
>
> - *A personal inspection of the subject property was conducted in order to properly determine its identity and relevant characteristics.*
> - *While on site, I documented the relevant information in writing and took detailed high-resolution digital images of the property.*
> - *Identification research was later conducted as necessary making use of relevant books authored by subject property experts.*
> - *Value research for past sales of comparable properties was conducted at local and national auction galleries including **[auction, auction, auction]** and by searching Internet website databases including **[website, website and website]**.*
> - *I analyzed the market data, making adjustments as necessary for differences in value characteristics between the comparable and subject property, and arrived at my final opinion of value.*
> - **[Describe here the extent of assistance provided by other appraisers, experts, specialists, consultants, etc., if any.]**

j. Describe information analyzed, the appraisal methods, techniques, approach to value employed. In addition to describing the approach(es) to value used, the appraiser must also explain the exclusion of any of the approaches to value. Here is an example for a donation appraisal in which an opinion of FMV is being developed using only the sales comparison approach to value:

> *In this assignment, the sales comparison approach to value was employed to determine fair market value. In the sales comparison approach, the most appropriate market is researched to locate comparable items which have sold in the past on which an opinion of value can be based. Adjustments in value are made to reflect differences (if any) in characteristics relevant to value and marketability between the comparable properties and the subject properties. Specific market data which formed the basis for my value conclusions is contained in the Valuation Section enclosure of this report.*

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[546] See the Chapter 3 section entitled *Scope of Work* for a detailed discussion of the important concept of Scope of Work as well as more examples of scope of work statements.

Neither the cost approach to value nor the income approach to value were employed:

- *The cost approach to value was not used in this assignment. The cost approach makes use of the cost to replace the subject property with a brand-new property. Since all the appraised items have relevant characteristics of age, provenance and rarity, they cannot be suitably replaced with a brand-new item; therefore, the cost approach to value, while considered, was not applied to this assignment.*

- *The income approach to value was not used in this assignment. In the income approach, anticipated future income of investment property (i.e., income-generating property) is capitalized in order to calculate its present worth. Since the subject property is not investment property, the income approach to value, while considered, was not applied to this assignment.*



k. SR 7-5 *Sale Agreements, Options, Listings, and Prior Sales* requires that (when warranted by the intended use of the appraisal and if necessary for credible results) the appraiser analyze and report as relevant to the subject property any agreements of sale, validated offers or third-party offers to sell, options, or listings existing as of the effective date of the appraisal. Prior sales of the subject property that occurred within a "reasonable time" prior to the effective date of the appraisal must also be analyzed and reported. If none, so state:

There are no known current agreements of sale, validated offers or third-party offers to sell, options, or listings of the subject property as of the effective date of the appraisal. There are no known prior sales of the subject property that have occurred within a reasonable time preceding the effective date of this appraisal.

l. State, as appropriate to the type of property involved, the use of the property as of the effective date of the appraisal and the use of the property as reflected in the report. When an opinion of the appropriate market or market level was developed by the appraiser (this is only required to be done **if necessary** for credible assignment results), **summarize** the support and rationale for that opinion.



On the effective date the subject property was being used for household decorative purposes, and its use as reflected in this report is the same.[547]

The definition of fair market value as being used in this assignment mandates the use of the market in which comparable items are most commonly sold at retail to the public, i.e., to the end user. In my opinion, for this assignment the most appropriate market consists of **[for example, use as applicable***: local, national and international auction houses.***] [or on occasion:** *retail galleries* ***if considered to be the market in which the subject property type is most commonly sold to the retail customer.*****]**

[547] Another example might be: *"On the effective date of this appraisal the subject machinery was being used as part of a going concern; however, the valuation in the appraisal reflects a liquidation value for the business considered as being defunct."*

m. Value Opinions and Conclusions

My final value opinions and conclusions are contained in this transmittal letter's Valuation Section enclosure.

n. Clearly and conspicuously state any assignment conditions encountered. (Note that there is no requirement that any statement be made at all if no such assignment condition existed. I include it here simply as a reminder to include them if encountered.)

- *Limiting Conditions:* **[clearly and accurately disclose, if any]**
- *Extraordinary Assumptions*: **[clearly, conspicuously and accurately disclose, if any, and state that their use "might have affected the assignment results."]**
- *Hypothetical Conditions:* **[clearly, conspicuously and accurately disclose, if any, and state that their use "might have affected the assignment results."]**
- *Jurisdictional Exceptions:* **[clearly and accurately disclose, if any, but normally there are not]**
- *Other:* **[disclose any additional assignment conditions that affected the scope of work in order to help ensure that the report is understandable and not misleading]**

o. State any disclaimers or terms of use associated with the assignment (best practice).

In general, the condition of the property is good. Serious damages and repairs, if any, will be noted in the Valuations Section enclosure of this report. Ordinary wear and tear common to this type of property is not noted.

Unless otherwise noted in the Valuation Section, this appraisal is based only on the readily apparent identity of the items appraised. In my opinion, no further opinion or guarantee of authenticity, genuineness, attribution or authorship is necessary.

If this report is reproduced, copied or otherwise used by those authorized, the report must be used in its entirety which includes this transmittal letter and all enclosures and attachments.

No changes can be made to this report by anyone other than myself. I am not responsible for any unauthorized changes to this report, and any such unauthorized changes immediately render this report null and void.

p. Include a signed USPAP Certification.

q. Include a statement of confidentiality (best practice).

I regard all information concerning this appraisal assignment as confidential. I retain a copy of this document along with my original notes in the assignment

workfile, and I will not allow others to have access to these records without your written permission unless so ordered by a court of law.

r. IRS Declarations. Noncash charitable contribution appraisals require the following declarations.

My background, education, experience and membership in professional associations qualify me to make appraisals of the type of property that is the subject of this appraisal. A complete list of my qualifications can be found in my Professional Profile which is attached in the addenda to this report. I understand that my appraisal will be used for income tax purposes.



I understand that my appraisal will be used in connection with a return or claim for refund. I also understand that, if there is a substantial or gross valuation misstatement of the value of the property claimed on the return or claim for refund that is based on my appraisal, I may be subject to a penalty under section 6695A of the Internal Revenue Code, as well as other applicable penalties. I affirm that I have not been at any time in the three-year period ending on the date of the appraisal barred from presenting evidence or testimony before the Department of the Treasury or the Internal Revenue Service pursuant to 31 U.S.C. 330(c).

s. For donation appraisals, a statement addressing how to handle IRS Form 8283 for donation appraisals only (best practice).

For noncash charitable contributions in excess of $5,000, IRS Form 8283, Side B, must be completed and attached to the taxpayer's federal income tax return. The form has sections that must be completed and signed not only by the taxpayer, but also by the appraiser and the donee. For your convenience, I have enclosed a copy of Form 8283 on which I've filled in Section B, Part I, columns 5 a, b, and c. I have also completed and signed Section B, Part III as required.

t. If making use of electronically-transmitted reports containing electronic signatures, you may wish to include in each report a statement similar to the following (best practice):[548]

This appraisal report has been transmitted to you electronically and includes my signature in electronic form. I affirm that I maintain sole personal control over the use of the electronic signature appended hereto. Electronically affixing my signature to this report carries the same level of authenticity and responsibility for this report's content, analyses and conclusions as would appending an original ink signature on a paper copy of this report.

On occasion, you will have a need to transmit the report electronically but may also need to snail mail a hard copy as well. This might occur if, for instance, the client needs the report as soon as possible but there exists report enclosures which require transmission via regular post such as a USB flash drive containing high resolution images of the subject property, relevant sketches, photocopies of referenced resources, etc. In such a

[548] See the Chapter 12 section entitled *Electronically Transmitted Appraisal Reports* for a related discussion.

scenario, send the report electronically (less those enclosures) and, in lieu of the above sample wording, make use of the following paragraph instead:

> *In addition to a hard copy of this report being mailed to you, this appraisal report has also been transmitted to you electronically (less Enclosures **[X and Y]**) and includes my signature in electronic form. I affirm that I maintain sole personal control over the use of the electronic signature appended hereto. Electronically affixing my signature to this report carries the same level of authenticity and responsibility for this report's content, analyses and conclusions as would appending an original ink signature on a paper copy of this report.*

u. For donation appraisals, the IRS has issued *Special Guidance* regarding items appraised over a certain amount. For **art valued at $50,000 or more,** Appendix BB *Guidance for Donation Appraisals of Art Valued Over $50,000—Object Identification* contains guidance regarding how the object should be described in the Valuation Section of the report. The guidance also addresses the inclusion of the reasoning and comparable market data on which the appraiser's opinion of value was based. In part, this guidance states:

> *The appraisal of each work should provide the basis or reasoning as to how the appraiser arrived at the individual appraised value. Individual comparable sales should be included. These sales should be analyzed in terms of quality, etc. and discussed as to how they relate to the subject property. The item discussion should include commentary regarding any special conditions or circumstances about the property, and a discussion of the quality or importance of the property in relation to other works of art by the same artist, and of the state-of-the-art market at the time of valuation. Whenever possible, statements should be supported with factual evidence.*

Note, too, that this guidance requires that appraisals for donated items in excess of $50,000 must include the taxpayer's cost, as well as the date and source of acquisition. Obviously, you must get this information from the client. In such cases, I suggest a statement similar to the following:

> *You told me that you acquired the item being appraised from **[source of acquisition]** on **[date of acquisition]** for the acquisition cost of **[$X].***
>
> Alternatively, if the client/taxpayer had received the donated property as a gift:
>
> *You told me that you received the item being appraised as a gift from **[source]** on **[date of gift]**.*[549]

Software Programs for the Appraiser

Historically, the personal property appraiser has made use of word processing software such as Microsoft® Office Word and/or a spread sheet program such as Microsoft® Excel to prepare

[549] See Appendix L *Sample Appraisal Transmittal Letter For a Noncash Charitable Contribution* and Appendix M *Sample* Appraisal *Transmittal Letter For Acquiring Replacement Value Insurance Coverage for Scheduled Property* for sample appraisal transmittal letters that compliment this discussion. Also see Appendix N *Sample Appraisal Valuation Section* for a sample Valuation Section enclosure.

appraisal reports. By making customizable templates for various appraisal uses such for as insurance, noncash charitable contribution, estate, divorce, etc., the appraiser can efficiently prepare appraisal reports without needless duplication of effort. This system continues to be favored by many long-time appraisers.

The advent of digital imagery and sophisticated appraisal software that makes inserting images into the report a snap and that recognizes and accounts for the many assignment variables as well as the need to comply to USPAP and certain societal standards has ushered in a new era for the appraiser who wants to be on the cutting edge of technology. Specialized software is now available for the personal property appraiser and for the gems & jewelry appraiser. Some of the better-known programs are:

Personal Property Appraisal Software

Collectorpro Appraiser Edition (collectorpro.com) published by Collectorpro Software, Inc. is a tool to assist appraisers creating professional appraisal reports of antiques, collectibles and other personal property. Easily customizable for many types of appraisals, Collectorpro saves the appraiser up to 50% of the time needed to create an appraisal report compared to using a typical word processing application. Designed using a modified Getty Object ID format, Collectorpro makes page formatting, object numbering, value calculations, and image placement quick and easy. Multiple report formats give the flexibility needed to prepare personal property appraisal reports for various intended uses such as insurance, division of assets, noncash charitable contribution and more. A fully searchable archive of all objects ever appraised and all comparable market data ever used is automatically created for future research and use in new appraisals.

Collector Systems Appraiser (collectorsystems.com) published by Collector Systems is a software application for personal property appraisers. Every Appraiser account comes with multiple subscriptions, which allow your business to manage individual clients without co-mingling data. Simply login and upload the object information for each client. Include all basic object data points and upload multiple images per object. Add current appraisals for each client, or review past reports from previous years. You can add multiple comparable sales to every object, and each comparable may contain several images. Every Appraiser account includes a full suite of USPAP compliant template reports that can be fully customized to include your company logo, dedicated cover sheets, and personalized addendum. With the included Gallery feature, you can provide a secure read-only area for your clients to view their collections.

Gems & Jewelry Appraisal Software

- **Professional Appraisal Software** published by Quantum Leap (qlss.com) is a powerful gems and jewelry appraisal software program designed to assist you in preparing your appraisals with ease. At its core, Quantum Leap incorporates user-definable drop-down lists, auto calculation of gem weights, management of reports and proprietary onscreen plotting technology. Additionally, Quantum Leap is unique in that it uses ActiveX® technology to integrate with Microsoft Word® as its editor allowing the user to publish appraisals with ultimate flexibility including integration of their own company logos, multiple digital images, dynamic table of contents, a report-sensitive glossary and more. Quantum Leap also allows the appraiser to freely create appraisals for differing purposes and intended uses.

- **GemGuide Appraisal Software (GAS)** (gemguide.com) is a part of the Gemworld International group, publisher of the *GemGuide* (*The Guide*) since 1982. Users enjoy the speed of data entry as all functions are menu-driven, so most appraisals will require no typing at all. All formulas are built-in including estimations where exact measurements are not available, so users will not need a calculator or reference book. Subscribers to the *GemGuide* pricing will have automatic pricing updates where prices download monthly into their tables, and these are fully integrated into the software. Metal prices, labor charts, markups, and more are available in the user tables for ease of cost analysis and final appraisal valuations. Upgrades are also fully automated, and the installed software will recognize when upgrades are available. (All upgrades are free.) Entering the hue, tone, and saturation will calculate a color grade to aid in pricing colored gems. Onscreen plotting and full grading reports can also be done, and digital photographs can be added. Appraisers can use the built-in printing feature, or they can export the document to any word processing program. Free online training is available to all users.

Chapter 12: The Professional Appraisal Practice

The growth of a successful appraisal practice requires the development and adoption of basic business techniques and systems as well as of methods of doing tasks in a consistent, professional and business-like manner. This chapter focuses on the more basic of those issues and strategies which are unique or particularly applicable to the personal property appraisal profession including business development, professional development, office equipment, processes and methods, and tools of the appraiser.

This chapter covers many basic appraiser techniques such as the **Client Data Form & Assignment Activity Log**[550] used from initial client contact to the delivery of the report, sample client and attorney letters and contracts, billing suggestions, marketing your own services as an independent contractor, and much, much more.

There is no right or wrong way in developing many of these techniques. Most are personal business decisions. Each method must be tailored to the appraiser's own personal preference.

Business Development

This is not intended as a complete guide to starting and managing a small business. Not even close! There are many resources available online, through university and community college courses, and through books and magazines that focus on establishing and maintaining a successful business. Anyone who is in business should take advantage of those resources. For specialized help, the appraiser must periodically consult with other professionals such as lawyers and accountants, as well.

Learning to manage your business is an ongoing process. New laws and government regulations, advances in technology and new professional standards may directly affect your business practices. You should expect to spend time and money to keep up with your business management skills just as you must spend time and money to be aware of changes in appraisal standards and practices. Successful appraisers must continually improve their business management skills as well as their performance as appraisers.

All successful appraisal businesses can attribute a large part of their success to consistent attention to business development. Many professionals offer an appraisal service as an adjunct to other related services such as jewelry store owner, antiques dealer, broker, restoration specialist, auctioneer, estate liquidator, etc. For them, business development efforts for their appraisal service are often interwoven with their business development plan for their primary business.

Full-time appraisers, however, must pursue a business development plan which focuses on the single service of providing personal property appraisals. Success requires a well-established identity within the community of not only all prospective clients, but more importantly that subset of prospective clients which can offer the appraiser repeat business. Included among this group are insurance agents, attorneys, estate planners, bank trust officers, auctioneers, community foundations, fellow appraisers, insurance and moving industry damage claims adjusters, repair firms, estate liquidators, downsizing specialists, antiques dealers and even other appraisers. Use every opportunity while interacting with these groups to mention your profession.

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[550] See Appendix A *Client Data Form & Assignment Activity Log.*

Join the local Chamber of Commerce or Business Network International (BNI). Whether by means of social gatherings or through structured referral marketing programs, such organizations will help you to develop long-term relationships with other professionals.

Hand out business cards. Be direct and tell people what type of client you are looking for, and that you would appreciate receiving referrals from them. Developing your business through referrals from your personal contacts will be one of the most important components of your success. It is important to promote yourself and your services within this group of professionals to ensure repeat basis—the foundation of any successful appraisal business.

And be sure to keep track of all these folks you meet along the way—especially their names and email addresses. One of the most important assets a business has is its contact list, and being able to send periodic electronic newsletters to your email subscription list is an excellent marketing tool and will give you a competitive edge.

Email Marketing Services

As just noted, use periodic emails to keep your name, face and services offered fresh in the minds of those likely to send you repeat business. Professional email marketing services such as constantcontact.com and robly.com help you keep customers and prospects coming back by using attractive, professional-looking email communications to stay in regular touch with them and to build strong customer relationships. It's better and more effective than regular mail. Email newsletters are fast and inexpensive to create, so you can send them more regularly than paper ones. And email marketing puts you in customers' inboxes more accurately than regular email, so you'll be seen by more people.

For much more information on starting and maintaining your own business, do an Internet search using keywords “starting a business” to find information such as starting a service business, types of business structures, legal requirements for starting a business, zoning issues, setting up a home office and much, much more. Be sure to seek professional legal and accounting advice as the need arises.

Your Business Website

When I began appraising there were no computers and certainly no Internet! But in just a short time the Internet has grown from a very simple way to send email to a sophisticated communications and marketing medium. Today everyone is aware of the Internet, and all professionals use it on a daily basis.

But even more amazing is the growth in Web functionality and the huge drop in the cost of that functionality. Today, any business can have a full-blown Internet catalog or e-commerce website for well under $2,000. This is overkill for an appraisal business, but you get my point—costs have plummeted. With the ever-improving website design software applications such as Wordpress and reasonably-priced website hosting and self-design services now available (I use bluehost.com for hosting my websites), many small businesses are capable of designing and maintaining their own online presence themselves at a minimal cost.

Here are just a few of the reasons for having a Web presence:

- **Public expects it**: This is probably the most important reason to have a business website. Today with Internet usage reaching nearly every household, if you own a business your customers expect you to have a website. Period. It's a sign of professionalism and commitment to your profession. There are many reasons for having a business website, but perhaps the most important is that it is now expected that you will!

- **Your competitors have a website**. They are benefiting from the use of the Internet and you should too.

- **Increased business by increasing your market size.** Any business website presence broadens the market reach for your business. Appraisers can market their services within their community, across the country or around the world.

- **Increased business by expanding your availability to customers.** Having your "storefront" constantly open provides would-be appraisal clients an around-the-clock opportunity to find and contact you, and retain your services.

  Your business website gives your customers access to your appraisal business 24/7 with very little increase in overhead. Even though appraisers seldom have a need for an online catalog of products, having your information available allows the customer to at least locate you and review your qualifications and appraisal services offered. Your website is virtually a worldwide announcement saying, "This is what I do. If you are ever in need of my services, you can easily reach me on the Web 24 hours a day."

- **Reduced information distribution costs.** Practically every business distributes some sort of information, and appraisers are no different. Services offered, types of appraisals, hints and tips, fees, your qualifications and curriculum vitae, etc. can all be posted online. A business website allows you to provide that information at little cost and in real time—exactly when the customer needs it and is looking for it.

Don't Let your Website Stagnate

Regarding website design, note that over the past couple years site designs have been evolving significantly. Web technologies have changed enormously in the past few years, including placing an emphasis on sites that are "responsive," i.e., sites that can be properly viewed on mobile devices such as smart phones, iPads and tablets where the content not only scales down but the layout of the content changes to better display on smaller mobile screens.

Many people have also moved from HTML sites using Flash technology (no longer supported by Apple on the iPhone or iPad) to content management sites built on platforms like Wordpress and Joomla. Often by making use of such platforms, owners can and often do make changes to their sites themselves. With the ability to change "themes," they don't just add content, but they also fundamentally alter the entire layout and design!

Note, too, that today's web designers are abandoning website designs that are packed with flashy illustrations and animations, faux-realistic textures and drop shadows —all intended to wow their visitors. Instead, that has given way to the "flat" design trend, which opposes all of these "artificial" design techniques, in favor of a more simplified, classically digital aesthetic

If your website is several years old and/or does not take advantage of the benefits found in today's trend toward flat, responsive design, you should consider a change.

Other Online Presence

As a small business, you must continually think of ways to get your appraisal-related services in front of as many people as possible (particularly those who will make use of your services on a repeat basis), all without breaking the bank. In addition to making use of email marketing services and having your own website, be sure to have a presence on LinkedIn and on Facebook. Do you make instructional videos? If so, YouTube is for you.

- LinkedIn is particularly helpful in developing business connections by you posting what is the equivalent of an online résumé, by having your skills endorsed by others, by participating in online appraisal-related discussion groups, by showing off projects or work you have completed, and by being able to generate more traffic to your website.

- While LinkedIn focuses on your business connections, Facebook's primary function is to connect and network with friends and family. Having said that, Facebook is also an excellent way for businesses to promote themselves by providing a business page to promote a new product or service, or perhaps something interesting you uncovered. Friends will share the page, thus creating free advertising for companies. The downside of Facebook is that you have to stay active and post frequently. A Facebook page that is stagnant and long-in-the-tooth will do more harm than good.



- Instagram and Twitter are two more popular social media marketing tools that are that are cheap and effective. As with Facebook you must remain active and post/reply/tweet frequently. Realize that not every social media platform is a good fit for every business. You should invest your time and skills in the platforms where you're most likely to reach and engage with your target audience.

- And have you noticed that videos are appearing more often in Google's search results pages? This is an indication that the search powerhouse Google considers video to be as important as text-only pages. You can take advantage of this by writing high-quality articles on your site and creating complementary YouTube videos.

Professional Development

There are several ways to begin your appraisal practice. Beginning as an employee with a large related company such as an auction/appraisal firm is one way, but perhaps the most common way of starting an appraisal career is as an independent appraiser. Often one adds the service of providing professional appraisal services to an ongoing related business. It is a natural extension of services for auctioneers, estate liquidators, traditional as well as online antiques dealers, or jewelry store owners.

Another way of getting started in an appraisal career is as an intern or apprentice with an established appraisal business. Attitudes about employing interns and apprentices vary widely within the professional appraisal community. While some firms are large enough and established enough to recognize the greater good such programs can have for the profession, their company

and the individual, most firms are too small and have little incentive to, in effect, train their competition.

Just as the appraiser must focus on the development of the appraisal business, the appraiser must also continuously grow professionally throughout his or her career. Professional development is documented in the appraiser's professional profile or curriculum vitae. It is this document that other professionals will look to in determining the degree of the appraiser's education, experience, expertise and commitment to the appraisal profession. Professional development activities can take the form of:

- Joining professional personal property appraisal associations and actively participating both at the national and the local level
- Advancing in levels of professional designation
- Attending appraisal and product-knowledge courses and seminars
- Subscribing to trade periodicals
- Authoring articles for professional periodicals
- Offering lectures
- Participating in museum or auction house connoisseurship programs
- Actively participate on social media

Staying abreast of changing market conditions and market data is a never-ending effort. Keeping current with ever-changing markets requires the professional appraiser to be observant of the marketplace whenever the opportunity presents itself. The appraiser must regularly visit retail establishments, auctions (both traditional as well as online), and estate sales to research value and observe market activity. Attending museum exhibits, gallery and trade shows, seminars and lectures will not only increase the appraiser’s knowledge base but will also increase his or her profile in the field. Today an appraiser’s research effort is facilitated by the plethora of trade periodicals, value guides, auction catalogs, reference books and, especially, Internet resources.

Whether looking at price tags as you wander about the mall, studying the post-sale auction catalogs, pouring over the latest value guides and trade periodicals, or surfing the Internet, keeping current with fluctuating values is an ongoing process. It is imperative that the personal property appraiser continually observe the marketplace and purchase those resources deemed essential within the appraiser’s specialty area.

Be sure to maintain complete records of such professional development activities. Some appraisal societies require professional development points for designation and for periodic renewal of designations. In addition, for those complying, The Appraisal Foundation’s *Personal Property Appraiser Qualification Criteria* (PPAQC) requires the documentation of initial education as well as continuing education in the form of courses and seminars.

Your Curriculum Vitae (Professional Profile)

Document your professional life-history in a one- or two-page curriculum vitae (a.k.a. professional profile). You'll be attaching it to every assignment report. You will also be mailing or emailing it to would-be clients.

CV? Résumé?

Curriculum vitas and résumés both have similar purposes—as marketing documents that provide key information about your skills, experiences, education, and personal qualities that show you as the ideal candidate. Where a résumé and curriculum vitae differ is their use, format, and length. A curriculum vitae—often called a CV or "vita"—tends to be used more for scientific, consulting and teaching positions than a résumé which is used primarily when applying for other types of jobs. Thus, CVs tend to stress academic history, professional associations and designations, awards/recognition, and authorship, and are frequently the choice of the personal property appraiser.

Where résumés tend toward brevity (e.g., no longer than a single page), vitas lean toward completeness. Unlike résumés, there is no set format to CVs. While CVs do not have the one-page rule of résumés, with CVs you need to walk the line between providing a good quality of depth to showcase your qualifications and attract potential client interest (including attorneys seeking expert witnesses) and providing too much information thus appearing verbose and turning off potential clients. So, limit your CVs to two pages (see example in Appendix G). Be sure to keep your CV current by making updates as your activities and achievements warrant.

Typical categories or headings for an appraiser's CV may include some or all of the following:

- Personal/contact information (name, address, phone number(s), email, website)
- Academic background (postgraduate work, graduate work/degree(s), undergraduate degree(s))
- Professional licenses/certifications
- Academic/teaching experience (courses written/taught)
- Related work experience (auction houses, restoration services, adjusting industry, dealer, jewelry store owner, etc.)
- Professional/academic honors and awards
- Professional development (conferences/workshops attended, other activities)
- Research/scholarly activities (books, papers, courses, articles, contributing author, etc.)
- Affiliations/memberships
- Consulting experience (expert witness testimony, contributing editor)

- Volunteer work
- Past clients[551]

Office Furnishings and Equipment

It is essential that appraisers obtain and learn to use such equipment that will maximize productivity. Gone are the days when an electric typewriter (much less a manual one) will suffice. All efficient appraisal offices today center around the use of a computer and other sophisticated office equipment. Allowances in the office budget must be made for the periodic purchase of new equipment and supplies and the maintenance of existing equipment. In addition to the standard office furnishings including book shelves, desks, chairs, and filing cabinets, the modern appraisal office must also contain:

- Computer
- Internet access
- Computer software (word processing, spread sheet, image editing, email, etc.)
- Printer
- Digital camera
- Cell phone/landline telephone

Not only is having the necessary equipment essential to the operation of a successful appraisal office, but clients and professionals with whom the appraiser interacts have come to expect that the appraiser will have such capabilities as communicating anytime and anywhere via cell phone, sending and receiving faxes (this is being largely replaced with the electronic transmission of files via PDF files), signing documents electronically if need be, and being able to send and receive emails with file and image attachments. Having the necessary equipment and software as well as the ability to make use of it is essential not only to functioning effectively as an appraiser but also to being considered as a professional by colleagues, peers, and past and would-be clients.

Printing Photographs

Few appraisers make use of print photography any longer. With today's technology, most appraisers simply embed digital images of the subject property into the description/valuation section of the appraisal report. If need be, they can also enclose with the report a USB flash drive containing high-resolution images of the subject property.

These steps often suffice, but at times, prints are preferred by the client. For instance, normally digital images will suffice, but, on occasion, for damage claims appraisals the claims adjuster might request prints to better aid in settling the claim. In court, it is often necessary to have quality prints for use as exhibits. Or the appraiser might simply prefer to attach prints keyed to the items listed in the report.

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[551] It is considered best practice to get permission from those past clients you would like to disclose in your C.V. before doing so.

For printing photographs, appraiser's using digital cameras might wish to compare the benefits of owning a photo printer and the high cost associated with purchasing necessary supplies, to the relatively low cost of uploading digital images for printing by one of the many digital photo centers available nationwide both online and locally. Online sources for uploading and ordering photos online including:

- ShutterFly® at shutterfly.com
- SnapFish® at snapfish.com

There are also traditional brick-and-mortar stores which have photo centers where uploaded images can be picked up by the appraiser—sometimes within an hour. A few such stores having locations nationwide include:

- Costco® at costcophotocenter.com
- Sam's Club™ at photo.samsclub.com
- Walgreens® at photo.wallgreens.com
- CVS/pharmacy® at cvs.com/photo

Self-Employed Working from Home

Personal property appraisers are usually self-employed and normally work from home. While some appraisers perform in other roles which places them in an office setting away from home and/or as an employee, most work out of the house as self-employed, independent contractors.

The benefits of being self-employed and working out of the home are substantial. Eliminate the dreary daily commute, reduce the wardrobe expense, have more family time, be your own boss, set your own goals, you and not the boss gets the money for the work you do, enjoy flex time every day, deduct expenses associated with the home business, enjoy less stress, etc.

But there are disadvantages, as well. There are no employee-subsidized health benefits for the self-employed. For some, when working from home it might be difficult to separate home life from work life. Having a separate, dedicated office in the home and being committed to working the business can help overcome this disadvantage. (In other words, avoid having to use the corner of your family room as a home office.) One must be self-directed and well-disciplined when self-employed—especially when working from home where chores and nap time can easily supersede work in order of priority.

Insurance

Be sure to consider your insurance needs as a professional appraiser. There are normally two types of insurance to consider.

- Errors and Omissions (E & O) insurance is a broad-reaching type of coverage which protects professionals from liability resulting from their own negligence, unintentional omissions, and errors. Even the most meticulous and honest professional can end up as a

defendant in a lawsuit. Without comprehensive Errors and Omissions insurance, you could have to pay thousands of dollars to clear your name—even from a frivolous liability suit.

- The second type of insurance covers such things as your business property, liability, loss of income and even records. There are basically three types of coverage for the home business. The third type (BPO) can cover your business outside the home as well. Check with your insurance professional to see which policy is best for you:
    - An endorsement to your homeowner's policy
    - An In-Home Business Policy
    - A Business Owners Package Policy (BOP)

Business Structure

The discussion of setting your business up as a legal entity is beyond the scope of this book other than to say get professional advice when considering doing so. An accountant or tax attorney can advise you regarding the pros and cons of incorporating or choosing some other form of legal entity such as a S-Corp. or an LLC. A common reason given for doing so is that it could help preserve your personal assets should you become embroiled in a legal dispute.

Basic Appraiser Techniques

Certain basic techniques are commonly and consistently followed by most successful appraisers during the course of an appraisal assignment—from initial client contact to delivery of the final appraisal report. There is no right or wrong way in developing many of these techniques. Most are personal business decisions, and each method must be tailored to the appraiser's own personal preference.

Initial Client Contact

Your first contact with a prospective client will typically be through a telephone conversation, but you will also make contact with clients while in public, such as while at a speaking engagement. So, always carry your business cards.

Explain to the would-be client the process you will follow, describe the product you will deliver, how you charge for your services including approximate expenses, and how long the assignment will take to complete. As you proceed, do not assume that the potential client is knowledgeable about the appraisal profession, of its standards or of the appraisal process itself. Most people are not. Assist them to understand these issues and what they can expect to be included within the assignment report.

In your initial discussion with a would-be client (whether it’s face-to-face or over the phone) you need to obtain important information regarding the client and the client’s requirements including a **clear understanding of the appraisal assignment problem needing to be solved**. During your discussions, you must define the parameters of your employment including any relevant assignment conditions so that you can determine the scope of work that you will be required to

undertake in order to develop credible assignment results. As part of problem identification, you will need to identify through communication with the client how the appraisal will be used, the identity of the client and any other intended users, and the type and definition of value you are being asked to develop.

Get Clarity when Identifying Type and Definition of Value

A common mistake that some appraisers make early on in the appraisal process is to fail to clearly understand the type and definition of value they are being asked to develop, i.e., the **purpose** of the appraisal assignment. For the intended use of acquiring insurance, the appraiser quickly identifies developing an opinion of replacement value as the purpose of the assignment. And for the intended use of donation, the appraiser quickly identifies developing an opinion of fair market value as the purpose of the assignment. But for certain other intended uses such as for loan collateral purposes, for litigation, or for liquidation purposes, the type of value to develop might not be as obvious. This is especially true for litigation assignments in which case the type of value and its definition might be established by precedent or **by jury instructions** or by an existing definition of **measure of damages**. Spend time with the client and/or the client's counsel to clearly identify the type and definition of value to be used. For litigation purposes, I request that counsel email me the type of value I am to develop along with its definition as well as a citation from which that definition originated.

During the client interview, describe to your client how you will proceed with the appraisal inspection once on site. Clarify any preparations you suggest or require be met by the client prior to your arrival.[552] Explain that you will need to examine the backs of items, so requirements might include having paintings taken down from the walls or having help available to move large pieces of furniture. High shelves might require that the client have a step stool handy. You may also wish to suggest that the client have all sterling silverware flatware, dinnerware, and crystal pieces gathered together in one place, sorted and counted.[553] Be certain to confirm that the client or their representative will remain available during the inspection, and that you will not be left alone while on site.

Get as much information about the subject property as you can over the telephone during the initial client interview. Learn if the client can provide you with information on age and provenance, or can provide you with previous appraisals or sales receipts for the property to be appraised. This type of information will be helpful and will expedite your research. Explain to the client why you want the information, and how it will help you to save your time and their money. However, you may need to verify some of the information provided by the client that will affect your conclusions. Memories can be faulty or incomplete, or clients may simply not be telling the truth. A client who is in the midst of a divorce might erroneously state that their things have little value but that property in their spouse's possession is important and very valuable.

Confirm the locations of the properties to be appraised. While more likely than not all the property is situated at one site, on occasion additional property must be inspected at a relative's house, in an out-building, or in a near-by self-storage warehouse.

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[552] See Appendix F *Pre-Appraisal Preparation Checklist.*

[553] There is nothing more tedious and time-wasting for the appraiser than to be required to gather together, sort and then inventory china, flatware and crystal services. If at all possible, have the client perform this task before you arrive.

Oftentimes property is not easily available for the appraiser's inspection. Items might be packed inside boxes and/or stored in the attic, closet or in a basement storeroom. Request that all items that are to be appraised be unpacked and made available for your inspection. Let the client know that while you are able to do the unpacking yourself, it would save time and expense if the client could have it done before your arrival. This is not always possible such as in the case where the clients are elderly or if it is an estate appraisal and heirs are not available to do the unpacking prior to your arrival.

Clients will also be able to advise you about conditions you may face at the inspection site such as a lack of electricity or heat, excessively hot attics on summer days, dangerous or filthy conditions because of fire damage, the presence of pets, lack of telephone service, or in the case of a divorce or business dissolution, the possible presence of a hostile spouse or business partner.

Many clients will also have a need to talk about the situation, especially if it is related to divorce, death or a calamity. Listen politely but, unless you are also a practicing lawyer, accountant or family counselor, do not offer advice other than that which is appraisal-related. Recommend that they seek professional advice from people who are expert in those other areas, should the need arise.

Inform the client that due to the wide variety of property types you encounter, on occasion it is necessary to make use of a specialist appraiser to assist with the assignment. Should you determine that the assistance of a specialist is needed, notify the client. At that point, the client can either authorize you to arrange for the use of a specialist and proceed with the assignment, or the client can remove the item from the list of property you are to appraise. If the latter case, the client would need to make his or her own arrangements to have the item appraised. If you are to proceed, contact the specialist to arrange for his inspection of the property. Perhaps the expert will want to first examine photographs and descriptions of the item which you can provide.

Follow Up with Additional Information

Following the client's initial phone call, it is considered good business practice to follow-up by sending the prospect material referencing your conversation and including information about you and the services you provide. The packet can include:

- **Letter of introduction** briefly describing your qualifications and experience, and what the requested service will entail. Appendix J *Letter of Introduction: General (to Moving Industry)* is a general letter of introduction sent to professionals such as a moving company claims adjuster or to attorneys. Appendix K *Letter of Introduction: Specific (to Estate Executor)* is a second letter that is more specific and is designed for an estate Executor.

- Copy of your **curriculum vitae**[554] which provides greater detail about your background, qualifications and experience.

- Copy of your **contract**.[555] Have your contract format reviewed by your legal advisor.

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[554] See Appendix G *Professional Profile.*
[555] See Appendix C *Contract for Appraisal Services (to Private Party)* and Appendix D *Contract for Appraisal Services (to Attorney)* as examples.

- **Pre-appraisal preparation checklist**[556]
- **Brochure**, **business card** or other **self-promotional material**

Use a Contract

It is important to eventually confirm your discussion and understanding in writing. Most appraisers use a contract. Contracts can be in writing or they can be verbal. Generally, verbal contracts are legally enforceable, but there's a fundamental problem: how do you prove what was agreed upon? That's why written contracts are far more useful—because everything's down in black and white.

So, it is good business practice to have a **written agreement or contract**. The contact can be prepared and signed either before or at the time of the initial appraisal inspection. Have your contract format reviewed by your legal advisor.[557]

Contracts can include, among other things:

- Contract date
- Name of parties (appraiser and client)
- Brief description of the items to be appraised
- Intended use of the report
- Type of value to be developed
- Anticipated assignment completion date (use “on or about” to protect yourself)
- Compensation rate, payment schedule including retainers and how expenses are to reimbursed
- Authorization for additional services if needed to complete assignment
- Clause holding appraiser harmless for accidental damage to property
- Clause holding appraiser harmless for tax-related liability (see below section)
- Signatures of client (have both spouses sign, if possible) and appraiser
- Recourse or arbitration clause
- Option to terminate/escape clause

Tax-Related Liability Claims

At times, appraisers might find themselves charged with negligence relating to appraisals performed for tax purposes, such as possible for charitable deduction or gift tax appraisals.

For donation appraisals, the appraisal will be used by the taxpayer to claim a charitable deduction, so the owner obviously hopes for a valuation that maximizes that benefit. Another common tax-related appraisal intended use is for gift or estate tax purposes. Here, the client hopes for a low valuation that will minimize gift or estate tax. Most appraiser are aware of the Internal Revenue Code §6695A penalty for valuation misstatements. But equally troubling should be the concern of professional liability claims against the appraiser by the taxpayer for damages resulting from the valuation misstatements.

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[556] See Appendix F *Pre-Appraisal Preparation Checklist* for an example.
[557] See Appendix D *Contract for Appraisal Services (to Attorney)* and Appendix E E*xpert Witness Engagement Letter (to Attorney)*

Help to protect yourself from such liability claims by being well-versed in and applying current appraisal methodology and techniques and by conforming to the generally accepted appraisal standards of USPAP. In addition, you might wish to address (in your engagement letter) liabilities which might occur in the event of an adverse tax determination. Here is an example of a statement that puts the client on notice that your liability is limited in the event that an adverse tax determination results in additional taxes, penalties or interest being imposed on the client/taxpayer:

> *If you intend to use the appraisal report I prepare under this agreement in connection with a tax matter, note that I provide no warranty, representation or prediction as to the outcome of your tax matter. The taxing authority (e.g., the IRS) may disagree with or reject my opinion(s) of value, or may disagree with your tax position. The taxing authority may also seek to collect from you additional taxes, interest, penalties or fees. You agree that I shall have no liability to you or any other party for any such taxes, interest, penalties or fees, and that you will not seek damages or other compensation from me relating to any taxes, interest, penalties or fees imposed on you or for any attorneys' fees, costs or other expenses relating to your tax matter.*

Client Data Form & Assignment Activity Log

Make use of Appendix A Client Data Form & Assignment Activity Log to record important information regarding the client and the appraisal assignment including any oral agreements you reached which might not be documented in your contract such as a modified payment schedule or the addition of more-than-expected properties.

A standardized form such as that shown in Appendix A will assist you in remembering to ask critical questions and to remind you of information that must be communicated to the client.

A Client Data Form & Assignment Activity Log could include the following:

- The client's name, address, email, phone and fax numbers
- The owner's name, address, email, and phone numbers (if the owner of the property is not the client)
- If an estate appraisal, the name and address of the Personal Representative or Executor (if different from the client)
- Parties who will be present to meet the appraiser and their contact information (if different from the client)
- Identification of intended users other than the client
- A general description of the property to be appraised
- The intended use of the appraisal
- Where the property is located and a phone number at that location, if any

- Address to which the original of the report is to be emailed and/or mailed
- Address to which copies of the report are to be emailed and/or mailed
- An appointment date for the inspection and directions; special parking or entry instructions, if necessary
- The purpose of the assignment (e.g., type and definition of value if an appraisal assignment)
- The effective date of the appraisal (e.g., if for an estate ask for the date of death, if a damage or claims loss ask for date-of-loss, if for a divorce ask for date of separation, if a donation appraisal ask for date of gift, etc.)
- When the report is required to be completed
- The fee that you estimated for your services, if applicable; otherwise your fee schedule, e.g., $X per hour, $Y for travel, etc.
- Space for logging assignment activity, research, conversations with client, client instructions, assistance provided by others, billable hours, required retainer, payments made by the client, balance due, etc.
- Anticipated assignment completion date

As noted, make use of the form to record expenses and hours spent on billable activities. The log sheet can also be used to document assignment-related activities and compliance with verbal directives such as sending a copy of the appraisal to the client's attorney because of a telephone request made by the client, or the client telling you to halt further work on the assignment until the client notifies you to continue. Documenting all instructions you received from the client could limit your liability should differences arise.

The Client Data Form & Assignment Activity Log form provides some space for logging your activities, but the space provided may prove insufficient for a large and active assignment. Use a **log sheet continuation page**[558] if necessary.

While many clients will make an appointment immediately with you over the phone, others need more information to make a decision, while still others are just “shopping” for the lowest fee. In any case, provide as much information as the caller requests over the phone and send additional information should the client request it.

Caution: Be leery of providing free pre-agreement consulting services. On occasion, you will be tempted to spend an inordinate amount of time on the phone consulting with a would-be client before having entered into an agreement with the party. Many appraisers find this practice objectionable as you will not be compensated for the pre-agreement time spent consulting with the client.

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[558] See Appendix B *Appraiser’s Log Sheet Continuation Page.*

If the client makes the appointment at the time of the initial phone call, send the introductory follow-up packet of information mentioned earlier (via email or postal mail) being sure to note in the letter of introduction the date and time you will be arriving for the appraisal inspection. If the client chooses to first read your material before deciding on hiring you, in your letter of introduction request that the client call you when convenient to schedule an appointment.

While on Site

Plan in advance. Know the exact location and means of access for the site at which you will be conducting the appraisal. Look up the location on the Internet to confirm the best route and estimate your traveling time. Many use a GPS navigation device while en route. Have the client's cell phone number and/or the phone number at the site in case you are delayed.

Get directions and parking instructions, if necessary, from the client. There will be situations where your entry will be restricted such as at a museum, a gated community, or a secured apartment building or business facility. If such is the case, find out in advance about the procedure for gaining entrance. Other difficulties in entry may arise in a contested or acrimonious divorce, when entering a crime scene, or when a guard dog is present! Know beforehand if you should be accompanied by museum staff, a representative or an attorney, or law enforcement personnel. It's a good idea, also, to confirm all appointments a day or two in advance.

Upon arrival, present the client with your business card. Do likewise for any other adult present. Ask where you can place your equipment. Normally the floor or a kitchen counter is a good place to use as a staging area. Do not place your equipment on upholstered or wooden furniture. Your briefcase or equipment could be abrasive or soiled with dirt or grime which could damage the furniture surfaces.

When you first arrive, review your contract with the client including your fee structure, your understanding of how the client intends to use the appraisal and the purpose of the appraisal, i.e., what it is that you are being asked to determine such as fair market value, replacement value, etc. Be certain that your contract is properly filled in and signed by all parties.

Clients often wish to have an approximation of the total cost of the assignment. They might have asked you this during the initial client interview. If you charge a flat fee, you may be able to provide an estimate of the total final cost after having inspected all the property. Some appraisers tell their clients that the total hours billed will not exceed two (three? five?) times the time spent on site conducting the inspection of the property. The ratio will vary depending on the type of assignment and extent of scope of work, but at least it is an approximation of what the final bill will be. For instance, you might be able to predict that based on your experience, for every hour spent on site you typically spend two hours in research and document preparation for a typical insurance appraisal. For an estate appraisal, it might be a bit less, and for a noncash charitable contribution appraisal perhaps a bit more.

Clients are normally unaware of the process appraisers follow, so take some time to explain it to them. Give the client an overview of how you'd like to proceed. As a suggestion, for a whole house, use a systematic approach. Start in the foyer and continue room-by-room in a logical fashion. If it's going to be hot, begin in the attic or upper floors and work downwards. In each room, begin in one corner and work clockwise. Explain that you will be taking notes about the property as you go (using either a pad of paper, laptop computer, or a digital audio recorder) and that you will also be taking photographs as necessary.

Ask the client to walk through the premises with you and specify which items are to be appraised and which are not. At times, when doing an estate appraisal property belonging to others is temporarily located on the premises but should not be appraised because the estate does not own the items. Be sure to get clarification of which items of property do not belong to the estate. Conversely, ask if there exists property that belongs to the estate but that is **not** located on site. If so, you may have to make arrangements for another appraisal inspection at that secondary location.

Do not minimize the significance that sentimental value can have on an otherwise meaningless, insignificant, and worthless item of property. Earn the client's immediate respect and trust by being considerate and non-judgmental of the property you are appraising.

While on site you may find that you are at the center of family or business dramas that should have no bearing on your appraisal. Don't be pulled into family disagreements or "taking sides," e.g., during estate or divorce appraisals. On occasion appraisers are in a private home at a time when the client is emotionally vulnerable due to the death of a loved one, the dissolution of a marriage, or a tragic loss from a fire or other disaster. The client may be under stress from family or because of legal actions. It is important to be understanding without intruding on personal matters and to demonstrate respect for both the client and the items being appraised.

Commonly Used Tools of the Appraiser

Today's personal property appraiser's business is fully computerized, online and makes use of several tools essential to performing appraisals in a professional manner. The following is a list of suggested tools for use while on site:

- Salesman's briefcase to care tools, supplies, equipment
- Digital voice recorder if you use one to record property descriptions
- Laptop computer if you use one to record property descriptions
- Extension cord for use with laptop computer while on site
- Notepads and clipboard if used to record property descriptions
- Pens & pencils
- Custom-designed data collection sheets or inspection forms as needed
- Photography equipment including digital camera and extra memory cards, if such is used
- Video camera if needed
- Measuring devices (including ruler, cloth measuring tape, retractable tape measure)
- Cell phone
- Flashlights (The brighter the better. Your work area will often be poorly lit.)
- Black light if necessary
- Extra batteries for all battery-powered equipment
- 10X loupe and various magnifying devices
- Troy ounce silver scales including both balance scale and spring scale (spring scales for heavier items too large for the balance scale)
- Rubber bands to hang heavy silver objects from spring scale
- Small mirror to view the backs of large case pieces of furniture
- Magnet
- Knot counter if you specialize in Oriental rugs
- White cotton gloves. Some sophisticated collectors will request gloves be worn when handling valuable silver, collection-grade firearms and edged weapons, textiles, old documents, etc.

- Coveralls, gloves, masks and boots for sites with fire or water damage or sites that are dirty or dust laden.
- If a jeweler: portable equipment such as gem lab, loupe, refractometer, diamond tester, metal tester, pen light, camera, tweezers, diamond cloth, scales, leverage gauge, etc.

Opinions vary as to the amount of reference material to bring to the work site. Few appraisers choose to do reference work while on site, unless via the Internet. Most do none. Notes and photographs taken while on site can facilitate the description, research and document preparation upon return to the office, so there is normally no need to do research while on site.

A valuable resource to carry on site is one you can prepare yourself. Place helpful at-a-glance reference material in a folder or binder. Include any references you come across which you feel might be helpful to you when on site. You might want to include photocopies of fake marks, a U.S. Patent Number dater, a list of Hummel marks, English Registration Marks, English Registration Number dater, a flatware pattern identifier, tips on caring for sterling silver, etc. While such a ready-resource may provide you with a quick bit of needed information, it is also a helpful tool with which to educate the client.

Caution Regarding Toxic Spaces

Much has been written recently regarding the adverse effect that mold, mildew and other toxic airborne contaminants such as asbestos can have on one's health. Should you be faced with an assignment in which you may be required to enter such a space—don't.

Unless you can be assured of a safe work environment, the risks simply are not worth the rewards. Having said that, contaminated spaces can often be cleaned. That, however, can be a time consuming and expensive proposition for the property owner involving local agencies responsible for public safety, inspections and permits, companies specializing in locating and testing for such contaminants as well as licensed remediation companies specializing in containment and removal. And while such processes may be successful for restoring the usefulness of the space, at times the personal property that was once inside that space remains contaminated (usually because of the excessive cost associated with cleaning the items) and, as bio-hazards, must be sealed up and discarded at a permitted landfill.

The bottom line is, be wary of agreeing to perform an assignment in which you are told or otherwise expect that you will be exposed to such contaminants.

Recording Data While on Site

There are three commonly-used methods of recording the appraisal inspection information that will be used as a basis for the appraiser's research and report content.

- One popular method is making handwritten notes on a pad of paper. This method allows for not only the documentation of property descriptions but also the drawing of marks or for making other annotations. It also provides a hard copy of the information. Having the information in a hard copy format gives the appraiser peace of mind knowing he or she will not have to return to the property location to record the information again.

- Some appraisers employ a portable digital voice recorder. Smart phones also have great voice recording apps. While a timesaver on site, recordings may require a time-consuming transcription at a later date. Dead batteries in a recorder might not be noticed in time, necessitating a re-do of some rooms. A return to the site on another date may be also be needed should the original recording later prove faulty.

- Others make use of a laptop computer which is an efficient means for cataloging inventories when in surroundings conducive to its use, e.g., where the computer can be set up for ease of use such as in a large office or warehouse. At other times, carrying around a laptop and making use of it while going room-to-room in a home setting can be awkward (particularly when the battery runs down and you need to be plugged in as you work!). This causes many appraisers to prefer the use of a legal pad or a voice recorder instead.

Some appraisers choose to use **custom-designed forms** to record data common to frequently appraised types of property such as china, flatware, special interest automobiles, firearms and quilts. Such forms serve not only as a systematic way to record data but also as a tool to ensure that no critical information is overlooked.[559] You can design your own forms for types of property you frequently encounter.

To save time, while on site record only the basic information. Afterwards, property descriptions can be amplified upon with the aid of photographs taken while on site. Regardless of which method you use, be sure to record dimensions while on site as they cannot be obtained from photographs. Also, sketch, photograph or take a rubbing of makers' marks (such as on silver flatware or hollowware), if necessary. Also, make handwritten notes of any relevant detail (such as transit-related damage) which might be difficult to clearly detect from a photograph.

When conducting your on-site inspection of household contents, be sure to wear appropriate clothing. Some inspections can be grueling, tiring, and dirty work such as when working a fire loss claim. At times, working in an unairconditioned home in the heat of summer will be much more comfortable when dressed informally in light-weight clothing.

Use Caution when Inspecting Property

Avoid damaging the property you are inspecting:

- Avoid placing your tools or briefcase on upholstered furniture. Ask which area can be used as a staging area. Usually the floor or kitchen counter top works best.

- When handling old, brittle papers or fragile books be especially careful. They can literally fall apart in your hands.

- Be careful if you are wearing jewelry. Rings can chip delicate porcelains, and necklaces can knock things over when you are bending over a table inspecting small items.

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[559] See Appendix H *Sterling Silver Flatware Inventory* and Appendix I *Dinnerware Inventory* for sample forms designed for use when appraising a flatware service or a dinnerware service.

- Do not write on paper atop a wooden surface such as a client's valuable mahogany dining room table. Doing so can leave an impression in the wood. Use a clipboard instead.

- Use caution when turning objects upside-down to inspect makers' marks. Lids can fall and break. Water may pour from vases. Salt can pour from shakers.

- Be careful when reaching inside china cabinets to retrieve items for inspection. Sleeves and elbows can knock over delicate objects. Instead, ask the client to retrieve and replace the items for you.

- If you are able to remove heavy framed paintings or prints from the wall (and hang them back up again!) for a more thorough inspection, fine. If not, ask the client to have them taken down before your arrival. The same goes for large items of furniture that need to be pulled away from the wall for inspection.

- Thinking about picking up that pitcher, teapot, vase or jug by the handle? Better think twice. It's best to pick such items up by cradling the body of the item in both hands rather than lifting it by the handle.

- Be careful carrying tools of the appraiser such as a camera or tape measure while moving about. If dropped, they can cause damage to the client's property.

- Don't smoke while working. Eat and drink carefully and do so only in the kitchen or employee's lounge. Never bring food or drink into your work area.

As you inspect the property, immediately advise the client of any damage or old repairs that you notice. They may not have noticed the damage prior to your visit. Therefore, it is important to clarify that the damage was a pre-existing condition and not your responsibility.

When doing estate appraisals, immediately notify the client if you unexpectedly run across such items as valuable coins, currency, jewelry, keys, or wills or other important documents.

Never be left alone in a client's home. Always ask the client or his or her representative to remain nearby. You may occasionally require information or assistance from the client to expedite the inspection process, but, most importantly, you want to avoid any situation where you might be wrongly accused or suspected of theft or damage.

Making Use of Photographs

Photographs play an important part in the appraisal process.

- They can be used to minimize time spent in the client's home by providing the detail needed for the appraiser to develop the necessary descriptions and identifications while back in the office rather than while on site.

- Photographs may be needed to accompany a noncash charitable contribution appraisal.

- Photographs may be needed to act as proof of ownership, existence or condition in an insurance appraisal.

- Photographs can be used to provide others with the information necessary to make decisions. For example, photographs of property showing pre-existing damage as well as transit-related damage will facilitate the decisions that need to be made by a claims adjuster.

- Photographs can be sent to other appraisers or experts when seeking their assistance. The use of digital scanners and digital cameras combined with email now make it easier than ever to transmit images to others in literally seconds.

Often, taking more than one photo of an item is in order. For an appraisal assignment having the intended use of documenting the value of specific high-value items for the purpose of acquiring insurance coverage, in addition to taking a photo of the overall item, do not hesitate to take close-up images highlighting specific relevant characteristics of the item as well. This is as opposed to complete estate appraisals where there is a plethora of items having minimal value. In such cases, take photos of the whole room from various vantage points such as from each corner of the room. You could also open up the china cabinet and take a photograph of the collection of glassware and porcelain pieces. But do photograph individually those items of high value. Use your own judgment as to which items are sufficiently valuable as to warrant their own photographs as there are no specific thresholds of value over which individual photos should be taken.

It is not necessary to include photographs with every appraisal assignment. Whether to do so or not will depend on the intended use of the appraisal as well as the needs of the client and other intended users, if any.

When included in the report, print photographs should be keyed to the item numbers within the appraisal report. Methods vary as to how to attach print photographs to the report document (for the rare appraiser who still uses prints). Some simply enclose the photos with items numbered bundled with a rubber band. Others use clear plastic pages with pockets into which the individual photographs are inserted.

Most appraisers, however, now make use of digital images. Small or thumbnail size versions of the images can easily be embedded in the appraisal report alongside the item description. In addition, for the client's use, a USB flash drive containing high resolution images of the items can also be enclosed with the final appraisal report. Alternatively, upload high-resolution digital images to a personal cloud storage service such as Dropbox and send your client the Dropbox link from which the client can download the images to his or her own computer. In any case, keying the digital images to their respective item numbers within the report can be done easily by using each image's file name.

Historically, photographs have been used during the review process for certain noncash charitable contributions. Reviews by the IRS and its Art Advisory Panel of high-valued donated properties are based solely on the use of photographs of the donated property and not on a personal inspection by the reviewers.

Specialist appraisers and authenticators who are recognized as having extensive knowledge and experience in a specialty area can be valuable consultants, but they often live far from the subject property. Some appraisers and authenticators will work solely from high-quality photos, while

others will insist on they themselves conducting a physical examination of the property at some point in time before reaching a conclusion. Digital photographs can quickly and easily be emailed to these colleagues for help in identifying or valuing the item. If prints are required, digital photographs can be inexpensively made by uploading the digital image files to photo centers such as those operated by Costco or Sam's Club

The use of photographs as a first step in the appraisal process may also eliminate the need for a full-blown appraisal or authentication service if, from the photographs, the expert can immediately determine that the object is a fake or for some other reason is not worth pursuing. However, on occasion even high-quality photographs will prove inconclusive—thus necessitating a personal inspection of the property by the expert, assuming, of course, that the property is still available for inspection, i.e., has not been lost, destroyed or stolen.[560]

Delivering the Appraisal Report and Getting Paid

Once completed, the appraisal report must be delivered to the client. Options include:

- **Notifying the client via email that the appraisal has been completed, attaching an invoice of the account balance still due, and advising the client that the report will be delivered upon receipt of the outstanding balance**. This is the normal process for new clients, but use a more flexible plan for established accounts. For instance, it is not a normal business practice to demand payment up front from moving companies, attorneys, insurance companies, or other professionals who are often used to being invoiced.

  It is good business practice to receive payment in full in advance of undertaking certain types of assignments such as bankruptcy appraisals. It is also common practice to receive advance retainer fees (see below) for certain assignments such as when providing services as an expert witness or when undertaking a particularly large and complex assignment.[561]

- **Delivering the report along with an invoice for the balance due (or a statement showing that the account has been paid in full).** This is the normal scenario used for established accounts and for use with other professionals such as attorneys, and moving and insurance companies. When using a postal carrier, I suggest not folding the report. Mail it flat and use a rigid mailer to avoid damage en route.

- **Emailing an electronic copy of the appraisal report along with an invoice for the balance due (or a statement showing the account has been paid in full) to established clients.** Reports are typically emailed as an Adobe Acrobat® PDF file and must contain a signed certification.[562]

    - Never send a Word file as your final appraisal report document. In a paperless office, a word processing file such as a Microsoft Word .doc or .docx file is not a document. Word files are merely drafts. PDFs are documents but Word files are

[560] See the section entitled *Using Photographs to Appraise When a Hands-On Inspection is Not Possible* in Chapter 5 for a related discussion.
[561] See Appendix E *Expert Witness Engagement Letter*.
[562] See the below section of this Chapter entitled *Electronically Transmitted Appraisal Reports* for related information.

not.

Sending a draft document in Word that includes your digital letterhead and signature to anyone is simply not a good business practice. In our paperless society, it is the PDF document and not the Word file that substitutes for the actual paper document. Why is a Word .doc or .docx file not acceptable? Because anyone can change them! Remember: Word processing files are only drafts. They are never, ever final documents and should never be sent to anyone as such. PDF files are more challenging to alter.

Also, protect your digital signatures and digital letterhead as you would the hard copy versions. Would you ever make a stack of your blank letterhead complete with your pre-applied signature available to the public to use as they wished? Of course not, so don't do it digitally. Learn to convert your Word documents to PDFs.

- A recommendation: When emailing your reports to a client in PDF format, ensure that all parts of the reports are included within a single PDF file. Do not email your reports as a series of several separate email attachments—one for the title page, one for the table of contents, one for the value summary page, one for the transmittal letter, one for the Valuation Section enclosure, one for your professional profile, one for photographs, etc. Client's should not be burdened with a gaggle of email attachments representing one report. Which part(s) are they to consider as the "report"?

  Learn to use MS Word's header/footer and page numbering features so that you can combine all the report elements into one Word file before converting to PDF format. Alternatively, programs such as Adobe Acrobat (Standard or Professional) allow you to merge multiple PDF files into one larger PDF file. There are other ways, including some free applications, to do the job. Google "merge multiple pdf files" to find out more.

- Some appraisers first send the client an unsigned copy of the report in PDF format via email along with an invoice for the amount due. The unsigned copy of the report has the word "Draft" watermarked across each page to prevent its use. Once payment is made, a signed report without the watermark is sent.

- In every assignment, I ask the client if they would prefer an emailed copy of the report, a mailed hard copy, or both. Often the client will prefer having the report quickly and efficiently delivered as a PDF file via email. At other times, they will request a hard copy be mailed, and, on occasion, they will request that you send both.

  - Some appraisers prepare a hard copy of certain reports such as those being used by the client to obtain insurance coverage or for donation purposes. Such reports are often bound and they commonly include large, color images of the appraised property embedded in the report and/or included on an enclosed USB flash drive. Such reports might also make use of enclosures that are a challenge to convert to a PDF format.

- For many intended uses, however, such bindings and embedded photographs are superfluous, and any necessary enclosures can be easily be converted to PDF format, such as by scanning. Often for litigation, state estate purposes, damage claims, or where time is of essence, the client will be satisfied with an electronically transmitted report.

Does email delivery maintain confidentiality? Note that The Appraisal Standards Board (ASB) of The Appraisal Foundation is of the opinion that even though, technically, email is not secure, sending reports via email does not violate the confidentiality requirements of USPAP.

> *It is the opinion of the Appraisal Standards Board that sending reports via email does not violate the confidentiality requirements in USPAP.* (2020-2021 USPAP FAQ #62)

Any manner of delivery of appraisal reports has inherent to it some degree of risk that appraiser-client confidentiality might be breeched. Regardless of whether sent by email or official postal carrier, there is always some possibility that the original document might be compromised. As long as the risks are understood and the delivery method is agreed upon by both client and appraiser, confidentiality is maintained and USPAP is not violated.

- **You can deliver the report to the client or the client can pick up the appraisal in person from your office.** This is normally done if there is some urgency. This method, however, is otherwise infrequently used as it is a supreme waste of time.

Electronically Transmitted Appraisal Reports

Given the ease, convenience and usefulness of transmitting appraisal reports electronically (such as via email as an attached PDF file), more and more appraisers are opting to do just that in lieu of (or in addition to) mailing hard copy reports to their clients.[563], [564]

If needed, there are a number of methods for safeguarding and authenticating the contents of electronically-transmitted documents to help ensure that those documents will not be nor have not been tampered with. Methods include encryption, restrictions on editing and copying, and the use of digital signatures. For the personal property appraiser (and depending on the demands of the assignment) restrictions preventing the recipient from being able to edit or copy the report are sometimes used; however, the methods for doing so are beyond the scope of this book.

Signature Also Needed on Workfile Copy

The report sent to the client is not the only place the appraiser's signature is required. The RECORD KEEPING RULE requires that an appraiser must prepare a **workfile** for each appraisal

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[563] USPAP does not specifically address the issue of electronically transmitted reports other than in general terms focusing on the appraiser's obligation to ensure that the report that is transmitted is not misleading or fraudulent. (2020-2021 USPAP FAQ #299)

[564] It is not necessary to retain a paper copy of electronically transmitted appraisal reports. (2020-2021 USPAP FAQ #323)

or appraisal review and that the workfile must include (among other things) "*true copies of any reports."* It further notes that:

> *A photocopy or an electronic copy of the entire report transmitted to the client satisfies the requirement of a **true copy**."* [emphasis added]

So, the workfile must contain a paper copy or an electronic copy of the report, but must the workfile's "true copy" also include a **signed** USPAP certification? Yes.

As stated in 2020-2021 USPAP FAQ #93, a "true copy" of any report is:

> *a replica of the report sent to the client. Any signatures that were affixed to the original report must also exist on the copy for the workfile.*

Note that for assignments making use of electronically-transmitted reports, the appraiser need only file an **electronic copy** of the entire signed appraisal report in the workfile. The appraiser is not required to file a paper copy of the report when only an electronic copy was delivered to the client. Having said that, there is no prohibition against storing copies of both the electronic copy as well as the printed copy in the workfile should the appraiser chose to do so.

Suggested Declaration

When making use of electronically-transmitted reports containing electronic signatures, you may wish to include within each report a statement similar to the following:

> *This appraisal report has been transmitted to you electronically and includes my signature in electronic form. I affirm that I maintain sole personal control over the use of the electronic signature appended hereto. Electronically affixing my signature to this report carries the same level of authenticity and responsibility for this report's content, analyses and conclusions as would appending an original ink signature on a paper copy of this report.*

Signed Certification for Oral Appraisal Report

USPAP's ETHICS RULE requires that, while the appraisal report might be delivered orally, the appraiser still has an obligation to maintain an assignment workfile. Among other things, the client workfile must contain:[565], [566]

> *...summaries of all oral reports or testimony, or a transcript of testimony, including the appraiser's signed and dated certification ...*

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[565] See the below section of this Chapter entitled *Assignment Workfiles* for related information.

[566] If provided with significant appraisal assistance by another appraiser, the oral report's signed certification must state the name of the person(s) providing significant appraisal assistance. In addition, the oral report workfile must include a summary of the extent of that assistance as per RECORD KEEPING RULE.

Retainers

A topic related to getting paid is **retainers**. It is not an uncommon practice for appraisers to request a retainer in some assignments. If you do not know the client well, if the client does not have a good payment history, or if you anticipate that the assignment will have a particularly high number of billable hours, then you should require a retainer. In addition, it is common to request a retainer when the assignment involves legal matters—particularly in cases involving battling parties such as a divorce.[567] Some appraisers charge a retainer for all assignments.

An appraisal assignment retainer is a sum of money a client gives the appraiser as an advance for appraisal services that the appraiser has agreed to perform for the client. The retainer might also include advance payment for anticipated expenses associated with the appraisal assignment such as for the appraiser arranging for an authentication service or for retaining the services of expert appraisers to assist with the assignment. Often, appraisers will request an initial retainer that is the equivalent of one half of the anticipated total bill. For divorce assignments, appraisers might request an initial retainer of between $1,000 and $2,000. Some appraisers choose to make their initial retainers non-refundable.

Appraisers must keep accurate and detailed records of all funds deposited into and withdrawn from the client's retainer account. Appraisers can bill against the retainer on a daily, weekly, or monthly basis. For example, if the client gave the appraiser a $2,000 retainer and the appraiser performed two hours of appraisal work on the client's behalf during the preceding month (at a rate of $200 per hour), the appraiser would withdraw $400 from the retainer as earned income. That would leave a balance of $1,600 in the retainer account which is still considered to be **unearned** by the appraiser. In other words, it is still the client's money, though it is being held in trust by the appraiser until earned.

At the conclusion of the appraisal assignment, any balance in the retainer account will be applied to the final invoice. The appraiser will return to the client any monies remaining in the client's retainer account after all appraisal fees and expenses have been paid. On the other hand, if the client's retainer account had been exhausted, the client will be obligated to pay the balance of appraisal fees/expenses remaining—often before the final report is delivered to the client.

Sometimes clients believe that the money they pay to an appraiser as a retainer is a set total fee for all the appraisal services associated with the appraisal assignment. Unless the appraiser specifically tells the client that he or she is charging a flat fee for the appraisal service, a retainer is payable as an **advance** only. The **actual** cost of the appraisal service might be less (in which case money will be refunded to the client) — but it might also be more. For example, in the case of a complex appraisal assignment including hundreds of items, or in the case of litigation (which might require ongoing appraisal work) it isn't always possible for the appraiser to accurately determine in advance what the cost of appraisal services will be. Unfortunately, there are too many variables in such assignments that can affect the final assignment cost. For that reason, appraisers may require that clients pay a retainer and may also ask them to replenish the retainer account while the assignment continues if the retainer account balance falls below a certain dollar amount.

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[567] When an attorney pays a retainer to an appraiser, the appraiser is henceforth under contract to the attorney and as such agrees not to conduct work that conflicts with the services needed by the attorney or the attorney's client.

Depending on the type and size of the assignment and my past experience with the client, I might or might not request that a retainer be paid. For small to modest size assignments I do not request a retainer. (I just make sure that I receive payment in full before delivering the final report.)

Shelf-Life of an Appraisal Report

Technically, an appraisal report is valid as of a specific point in time which is referred to as the effective date of the appraisal. But for real-world reasons of practicality, the reported opinions and conclusions are considered to be valid for a period of time extending beyond the effective date of the appraisal.

USPAP does not address the period of time during which an appraisal report is valid (see 2020-2021 USPAP FAQ #143). Having said that, various appraisal user groups such as insurance companies may establish their own requirements or guidelines for the validity period of an appraisal report. In addition, the IRS has established a requirement that appraisal reports for the purpose of a taxpayer determining his or her deduction for a noncash charitable contribution is valid for a period of only 60 days if the appraisal report is completed prior to the actual date of donation.

USPAP and the Signed Certification

USPAP SR 8-2(a)(xiv) (when using the Appraisal Report option) and SR 8-2(b)(xvi) (when using the Restricted Appraisal Report option) require that appraisal reports "*include a **signed*** [emphasis added] *certification in accordance with Standards Rule 8-3."* This USPAP "certification" is, technically, the only part of the report which USPAP requires be signed by the appraiser. Some appraisers, though, choose to also sign other parts of the report such as a transmittal letter or assignment-related forms such as IRS Form 8283 for noncash charitable contribution appraisals, but for the purpose of this discussion we will focus on the signature that USPAP requires be on the appraisal report's USPAP **certification**.

Signature Defined

USPAP notes that a "signature" is "*personalized evidence indicating authentication."* For instance, the signature could be handwritten, on an inked stamp, **or** it could be in a digital form for appraisals that are transmitted electronically. In its DEFINITIONS section, USPAP defines a *Signature* as follows:

> *SIGNATURE: personalized evidence indicating authentication of the work performed by the appraiser and the acceptance of the responsibility for content, analyses, and the conclusions in the report.*

For traditional written reports, the appraiser simply affixes his or her signature directly on the document, but how does the appraiser comply with this signature requirement for appraisal reports that are delivered electronically? of verbally?

The Management section of the ETHICS RULE contains requirements for the proper management of the appraiser's signature but does not specifically address electronic signatures. It states:

> *An appraiser must affix, or authorize the use of, his or her signature to certify recognition and acceptance of his or her USPAP responsibilities in an appraisal or appraisal review assignment (see Standards Rules 2-3, 3-6, 6-9, 8-3, and 10-3). An appraiser may authorize the use of his or her signature only on an assignment-by-assignment basis. An appraiser must not affix the signature of another appraiser without his or her consent.*
>
> *Comment: An appraiser must exercise due care to avoid unauthorized use of his or her signature. An appraiser exercising such care is not responsible for unauthorized use of his or her signature.*

The USPAP publication gives some guidance regarding signatures and electronic reports within its Frequently Asked Questions:

- 2020-2021 USPAP FAQ #272 notes that USPAP allows another person to sign for the appraiser as long as it is with the appraiser's specific authorization. The person should sign the appraiser's name and then write his or her initials by the signature preceded with the word "by" (e.g., "by djm").

- 2020-2021 USPAP FAQ #276 notes that the signature requirements for either a paper version or an electronic version of the report are the same—they must both contain a signed USPAP certification.

- 2020-2021 USPAP FAQ #273 acknowledges the acceptability of applying a digitized image of the appraiser's signature (commonly obtained by means of digitally scanning an original signature) to a report by likening its use to that of a rubber stamp version of the signature (the use of which is also permissible).

- 2020-2021 USPAP FAQ #274 notes that while it is the appraiser's responsibility to exercise due care to prevent misuse of his or her digital signature, it is not a violation of USPAP if that signature is stolen and misused.

Making Changes to Completed Appraisal Reports

On occasion, the appraiser might be asked by the client to make changes to a completed appraisal report. Changes might be requested for any number of reasons including the need for an insurance update, a need to have items added to or deleted from an earlier appraisal report, or, perhaps, after receiving the report the client will ask that a change be made to the report.

Appraisal Updates

An appraisal update is intended to provide a more current value or analysis involving the property that was the subject of a prior assignment. Updates are not merely an extension or addenda to the prior assignment. They are completely **new** assignments altogether.

Clients request appraisal updates for various reasons. Insurance companies normally advise their clients that personal property appraisals be updated every three years or so. Regarding business assets, it may be necessary to appraise collateralized equipment periodically for financing purposes. A donor may want to gift to a museum a 25% partial interest (referred to as an

undivided fractional interest) in a work of art each year for four years. Doing so may require an appraisal be performed in each of the four years. (The potential for periodic appraisal updates is one reason the appraiser should retain related assignment workfiles indefinitely.)

When updating an insurance appraisal, the appraiser normally, but not always, conducts a personal re-inspection of the subject property to ascertain its condition and that the items do, indeed, still exist. In addition, the appraiser may need to delete items no longer in the client's possession and maybe add new property which the client has acquired since the date of the last appraisal.

Updates are not merely modifications of the prior assignment. Rather, they are entirely **new** assignments. Note that the scope of work for the update assignment might be different from the scope of work for the original assignment. For instance, in the original assignment the appraiser might have conducted a personal inspection of the property. Such an inspection would be reflected in the initial assignment's scope of work statement. But assume that in the update assignment in order to reduce costs the client merely provided photographs to the appraiser to show the property's existence and current condition. The scope of work statement for the update appraisal would necessarily need to reflect that the appraiser did not personally inspect the property, but rather based opinions of value on photographs and other information as provided by the client.[568]

USPAP notes that there are different ways in which appraisal report updates can be prepared. For personal property appraisal report updates, the most common methods are:

- Most popular method: To prepare a completely new report containing all the necessary information and analysis required to satisfy the reporting requirements of STANDARD 8 without attachment of or reference to the prior report.

- Alternative method: To prepare a new report that incorporates by use of **attachments of** or **reference to** specified information and analysis from the prior report so that the new information when combined with that which came from the prior report satisfies all the reporting requirements of STANDARD 8 *Personal Property Appraisal, Reporting*. With this option, the appraiser need not start over from scratch; rather, the appraiser may be able to make use of information and analyses developed for the prior assignment.



When incorporating by **reference**, in order to avoid the new appraisal being misleading, be sure to be sure to identify these elements of information from the prior appraisal: appraiser, subject property and interest being appraised, client and other intended users, intended use, effective date, and date of report.

Record Keeping for Appraisal Updates

The appraiser may have to comply with special record keeping requirements when performing an appraisal update. If the update incorporates or relies upon all or part of a prior report, then the prior report, or the portions of that prior report that were relied upon, must be retained in the current assignment's workfile. If the appraiser does not have custody of the prior work, the **location** of the prior work must be disclosed in the workfile.

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[568] Of course, the update report would also have to include a disclosure of the limiting condition encountered and extraordinary assumptions made because of the lack of a hands-on property inspection.

Supplemental reading regarding appraisal updates:

- Advisory Opinion 3 *Update of a Prior Appraisal*

Client-Requested Revisions

After completing an appraisal assignment, appraisers are, at times, contacted by the client and asked to make revisions to the completed report. For example:

- The client might want additional items added to an already-completed appraisal report. The client might even offer to email the appraiser digital images of the additional items in order to avoid the expense of the appraiser having to revisit the home, or

- The client might ask that the appraiser perform more research to locate additional comparable market data to better support the appraiser's opinions, or

- The client might request that the appraiser make minor revisions such as to correct typographical errors.



All three of the above scenarios will require a modified scope of work. This is because two of the scenarios require additional work involving photographs and one of the scenarios will require the appraiser to conduct additional research. In addition, all three of the above scenarios will require a change to the date that the new report is transmitted to the client, and all three scenarios will also cause the date of the USPAP certification to change. Accordingly, the appraiser must modify both dates to reflect the date the new certification was signed as well as the date that the new report was re-transmitted. (2020-2021 USPAP FAQ #152)



Treat such scenarios regarding client-requested revisions in a manner similar to that suggested in the preceding section *Appraisal Updates*, i.e., prepare an entirely new appraisal report. Do not try designing some sort of "addenda" that the client could staple to the already-completed report. As described above, too many factors are subject to change such as the date of the report, property identification or other such assignment elements, date of certification and perhaps even the scope of work. All such issues must be re-visited in order to ensure that the new opinions of value (taking into consideration the new assignment elements (e.g., more items added or removed) or perhaps a different scope of work) are developed and the new report is prepared in accordance with the requirements of USPAP.

Relationship of Current Value to Prior Appraisal

On occasion, a client simply wants to know if the market for a previously-appraised property has changed and whether the value of the property has remained the same, increased or decreased since the prior appraisal. In making a determination one way of the other, the appraiser is performing an "appraisal" as the term is defined in USPAP, so must comply with all relevant USPAP obligations, including STANDARDS 7 *Personal Property Appraisal, Development* and 8 *Personal Property Appraisal, Reporting*.[569]

[569] Remember, USPAP's DEFINITION of *Appraisal* includes opinions of value that can be a specific amount, a range of numbers, **or** a relationship to a previous value opinion, i.e., more than, less than, etc.

Record Keeping

In operating an appraisal business, you will be responsible for maintaining various types of records. These include assignment workfiles, accounting and bookkeeping records, and personal and business tax records.

Assignment Workfiles

Assignment workfiles preserve evidence of the appraiser's compliance with USPAP, and they contain other information that is required to support the appraiser's opinions and conclusions. Workfiles also aid the appraiser in handling client or intended user questions regarding the assignment that might be raised subsequent to the date of the report. Workfiles also facilitate USPAP enforcement by public agencies or peer review should the need arise.

Workfiles must be in existence **prior to the issuance of** a written or oral appraisal report. The RECORD KEEPING RULE of USPAP states that:

> *An appraiser must prepare a workfile for each appraisal or appraisal review assignment. A workfile must be in existence prior to the issuance of any report. A written summary of an oral report must be added to the workfile within a reasonable time after the issuance of the oral report.*
>
> *The workfile must include:*
>
> - *the name of the client and the identity, by name or type, of any other intended users;*
> - *true copies of all written reports, documented on any type of media. (A true copy is a replica of the report transmitted to the client. A photocopy or an electronic copy of the entire signed report transmitted to the client satisfies the requirement of a true copy.);*
> - *summaries of all oral reports or testimony, or a transcript of testimony, including the appraiser's signed and dated certification; and*
> - *all other data, information, and documentation necessary to support the appraiser's opinions and conclusions and to show compliance with USPAP, or references to the location(s) of such other data, information, and documentation; and*



Note that a workfile in support of a Restricted Appraisal Report or an oral appraisal report must be sufficient for the appraiser to produce an Appraisal Report.

USPAP requires the retention of assignment workfiles for a period of at least five (5) years after preparation, or for at least two (2) years after final disposition of any judicial proceeding **in**

which testimony was given, whichever period expires last.[570] Some appraisers choose to keep all workfiles indefinitely.

By the way, though not required by USPAP, good appraisal practice dictates that certain appraisal workfiles be kept indefinitely. Included are those which contain original research information which you might want to refer to in the future, insurance appraisals which might require periodic updating, and those assignments in which future litigation is a possibility.

Indeed, many appraisers choose to retain **all** workfiles indefinitely. You may be asked to replace destroyed documents or to consult appraisal reports years after you have completed the assignment. Nearly every appraisal carries the risk that you will be asked to testify in court about the appraisal. It is also possible that your records will be subpoenaed and that your business premises could be searched with a warrant. So, if you have the room, you might want to keep all appraisals and their workfiles indefinitely.

Workfile Custody

An appraiser typically maintains custody of the workfile; however, if the appraiser does not maintain custody of the workfile, he or she must make arrangements for workfile retention, access and retrieval with the party that does have custody of the workfile. Conversely, an appraiser having custody of a workfile must allow access to it by appraisers having workfile obligations that are related to the assignment.[571]

Caution: Maintain Software to Access Electronic Workfiles

Some appraisers maintain workfiles kept only in electronic format.[572] They save appraisal reports and supporting documents electronically—scanning documents as necessary in order that they can be stored on electronic media. In such cases, appraisers must use caution to ensure that proper computer hardware and software are maintained so that the workfiles are able to be accessed for the required period of time.

Remember that USPAP requires that a "true copy" of the transmitted report be maintained in the assignment workfile. This means that if you send a report electronically, you must maintain an electronic copy in the workfile. By the way, there is no obligation to print out a paper copy of an electronically-transmitted report for the workfile, though many appraisers do.

Disposal of Workfiles

Once the required retention period has passed, the appraiser may wish to dispose of workfiles. USPAP does not dictate a particular method for disposing of workfiles; however, since the appraiser-client relationship (including the attendant confidentiality obligations to the client)

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[570] Note that if the appraiser **did not** provide testimony, then the workfile need be retained for only five years even though the assignment was involved in a judicial proceeding including being submitted as evidence.

[571] See the Chapter 7 section entitled *RECORD KEEPING RULE* for a complimentary discussion regarding workfiles and workfile custody.

[572] There is nothing in USPAP that would prohibit an appraiser from maintaining only electronic versions of the workfile. (2020-2021 USPAP FAQ #100)

never terminates,[573] appraisers must ensure that they do not violate the Confidentiality section of the ETHICS RULE even when disposing of workfiles. Accordingly, appraisers must ensure that whatever method of disposal is used, assignment results and confidential information are not revealed during or as result of the disposal process. (2020-2021 USPAP FAQ #83)

Even if the client asks that the assignment workfile be purged, the appraiser is prohibited from doing so by USPAP until five years have passed (or for two years following a judicial proceeding in which testimony was given).

Record Keeping When There is More Than One Appraiser

What are the record keeping obligations if more than one appraiser signs the appraisal report? In such a scenario, neither appraiser is specifically identified as the one to retain custody workfile; however, the appraiser who does not have custody, must make appropriate arrangements (preferably in writing) with the custodian to ensure that there is workfile retention, access and retrieval for both appraisers for the requisite period of time.

Business Records

You must also keep accurate and complete financial records of income and expenses for your appraisal business. A professional accountant can assist you in setting up a system to process invoices, monitor accounts receivable and payable, monitor bank transactions and balance accounts, track income and expenses and file government and tax reports

Tax Records

Federal, state and local governmental agencies require an individual and a business to retain tax records for a certain period of time. Tax regulations require that your business records be kept separate from your personal records and bank accounts. This is also sound business practice. The length of time tax records must be kept varies, so check with your accountant or on the IRS website at IRS.gov.

Expert Witness Testimony

For those appraisers who are interested, there are opportunities to serve the legal community by assisting an attorney prepare for trial as a consultant or as an appraiser:

- The appraiser might serve as a consulting expert in matters relating to appraisal principles, methodology, ethics and standards.
- Specialist appraisers may serve as consultants regarding the property type in which they specialize.

[573] There are no provisions in USPAP for terminating the appraiser-client relationship; accordingly, confidentiality requirements apply regardless of the status of the client, [assignment, or workfile]. (2020-2021 USPAP FAQ #70)

- Appraisers often become involved in offering services as an expert witness to assist in legal cases requiring depositions or expert witness testimony in court.

- Appraisers may be called upon to develop an opinion of value in accordance with USPAP STANDARDS 7 *Personal Property Appraisal, Development* and 8 *Personal Property Appraisal, Reporting* regarding the subject property.

- Appraiser may be called upon to review the work product of another appraiser in accordance with USPAP STANDARDS 3 *Appraisal Review, Development* and 4 *Appraisal Review, Reporting*. Such reviews may or may not require the appraiser to develop his or her own opinions of value.

An expert witness in court differs from a lay witness. A **lay witness** may only testify to factual evidence—evidence they detected using their senses, e.g., what they saw or heard, but lay witnesses are not permitted to offer an **opinion** when testifying in court or when giving a deposition.

On the other hand, a qualified **expert witness** may state his or her opinion in their area of expertise assuming that the opinion is relevant to the matter at hand. Before an expert can give opinion evidence, however, he or she must first be established as an expert and be accepted as such by the court. In a court of law, being accepted as an expert is accomplished by the expert presenting his or her qualifications including level of education, experience, honors received, and skill and training. Once qualifications have been presented, the court must decide whether or not to accept this person as an expert witness. Choosing the “right” expert witness can be one of the most crucial decisions made by an attorney and the attorney’s legal team when they are preparing a case for trial and/or settlement.

If the court determines that the appraiser is, indeed, qualified as an expert, then the appraiser may state his or her opinion and state the basis for that opinion. The weight given to an expert's testimony will be proportional to the witness's qualifications as an expert and the degree to which his or her opinions are supported by facts.

Attorneys look for specific types of people to serve as expert witnesses. They look for experts who will be objective and without bias, and, obviously, the expert must be qualified. Be prepared to present information regarding your professional memberships and affiliations, training, certifications, practical experience, litigation experience, published literature, real world experience and expertise, education from reputable undergraduate and graduate universities, and societal appraisal educational courses completed, designations awarded, and recognitions and awards received. Such information is normally contained in the appraiser’s curriculum vitae.

Experts must be reasonably available which means they will return attorney phone calls promptly, are not too busy with their own private practice to testify, and will be willing to devote the time necessary to properly prepare for trial or deposition. Attorneys learn to avoid would-be experts who are too busy or who do not return phone calls or reply to emails in a timely manner.

Attorneys have to balance the need to have an expert who knows his or her way inside a courtroom with the need to avoid an overexposed expert who will be perceived as a hired gun. The attorney will study the appraiser's curriculum vitae to see if the expert is overexposed, has any lurking conflicts, or is in any other way compromised. The expert should be asked directly if he or she has any skeletons in the closet, has been the subject of any disciplinary actions, or the

subject of any lawsuits. The expert should be asked if she or he has ever offered any opinions contrary to their anticipated testimony or has ever written or spoken on this issue. All articles and speeches by the would-be expert should be researched for potential problems. The attorney should also check out the expert's website to see if any potentially damaging material is listed which could adversely impact the case.

An attorney will generally select an appraiser to testify as an expert based on recommendations from other lawyers and other appraisers as to who is an expert in the field. Therefore, within your broad range of experience, focus on an area where you have done most of your work, or have researched more than most people, so that you will become recognized as the one having the requisite expertise. Attorneys also make use of such services as Technical Advisory Services for Attorneys (TASA), so you may wish to become listed with them as well. Visit them at tasanet.com. The JurisPro Expert Witness Directory is a similar service at jurispro.com, as is Forensis Group at forensisgroup.com.

Being Hired and Trial Preparation

Before being hired, an appraiser/expert must find out the task at hand and determine if he or she has the necessary expertise to do all of the work requested. In other words, the appraiser should first identify the assignment problem.

If not qualified, the appraiser should recommend that others be hired for the tasks for which the appraiser is not an expert. Recognize your limitations and never go beyond your expertise—you will just assist in losing the case for your client if you do.

Discuss with the attorney such items as your education and experience in the field and the scope of the assignment. Confirm dates including property appraisal inspection dates, report due dates, discovery cut-off and trial dates. Discuss fee arrangements including any required retainer. Generally, if an appraiser is hired as an expert to give an expert opinion, he or she will be paid for services rendered. Find out who is responsible for payment of your fees:

- Normally, the lawyer will pay the expert directly unless it is mutually agreed that the client will pay. Many appraisers request an up-front, non-returnable retainer fee. If necessary, specify specific fee arrangements such as for consulting with others, testifying in deposition and trial, travel and other expense.

- Bill regularly and submit detailed statements. Use log sheets if directed by the attorney to document your activity including travel and accommodations. Such records may be necessary to support payment in cases where payment of fees and expenses must be approved by the court.

Prior to appraising the property for litigation purposes, advise the attorney that you will be sending him a letter confirming the attorney’s retention of your services. The letter should outline the tasks to be performed such as property to be appraised, or perhaps the review of another appraisal. The letter should address access to the items to be valued, retainers and other

requirements necessary to commence the appraisal. The attorney should confirm these matters in writing and/or sign off on the appraiser's letter's terms of retention.[574]

A discussion should be included in the initial attorney/appraiser conference as to the ability of the appraiser to have access to information held by the opposing side, i.e., discuss the need for the attorney to obtain needed documentation via subpoena, discovery or otherwise and sending same to the appraiser as necessary. Also, is there a need for the appraiser to educate the attorney in understanding value theory, principles and practices, or generally-accepted standards such as USPAP? Is there a need for help in understanding issues regarding the property being litigated such as its value characteristics, rarity, provenance, etc.? Is there a need for the appraiser to critique any opposing appraisers or opposing appraisals? If so, the attorney should provide the appraiser with the opposing appraiser's curriculum vitae and appraisals for review and critique.

The attorney has the responsibility of informing you about the items being litigated and of the reasons for litigation. The attorney should also advise you of his or her intended approach to litigation and let you know of any problems which may occur during the litigation process. Note, though, that caution must be exercised by the attorney in what information he or she shares with their expert witness as information that the attorney shares is "discoverable" during the course of the trial.

Before accepting employment, discuss issues regarding conflict of interest to ensure that no conflict of interest exists between you and the parties or property involved. Obtain instructions from the attorney as to confidentiality issues and other client concerns.

As soon as you are retained for an appraisal, advise the attorney about inspections which need to be conducted so that item descriptions, photographs, measurements, testing, grading, authentications, etc. can be obtained as soon as possible in order to properly document the property. Identify key documents which must also be secured such as the opposing side's appraisal report, homeowner's insurance policies, cancelled checks, old appraisal reports, sales receipts, or other documents relevant to the value of the property in question.

Raise issues and offer advice. Make sure you point out both the favorable and unfavorable facts of the case. Spot false or weak assumptions and inadequate work by other "experts" including the lack of professionally-recognized training of the opposing appraiser or the opposing appraiser's failure to prepare appraisal reports in accordance with his or her own societal standards or in accordance with the nationally-recognized standards of USPAP.

Familiarize yourself with all relevant aspects of the case so that you understand where your opinions fit in. Have you pinpointed sensitive areas to the attorney? Do you understand your confidentiality responsibilities? What materials will the attorney provide for your review? What documents or reference resources used while conducting your appraisal are you expected to locate and provide for deposition such as price guides and other bibliographic resources, or a list of Internet websites used while conducting value research?

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[574] See Appendix D *Contract for Appraisal Services (to Attorney)* and Appendix E E*xpert Witness Engagement Letter (to Attorney)* for an example of a *Contract* and of an *Expert Witness Engagement Letter* that can be used when working with an attorney.

Identify opinions involving the case upon which even reasonable experts may differ. Doing so may prevent your attorney from placing undue confidence or dependence in your opinions regarding those particular issues.

Once officially "disclosed" or "designated" as a testifying expert, all of your analysis, notes, conversations, reports, correspondence, opinions, research, photos, etc., usually become discoverable; therefore, establish disciplined note taking practices to avoid creating misleading, embarrassing, or damaging materials including offensive off-hand remarks in notes and emails. At times, the attorney will prefer that you communicate by telephone as opposed to putting certain information or findings in writing. Be sure to discuss the issue of discovery with the attorney.

Ask about the topics that might be covered during questioning or on cross-examination and even about specific questions that might be asked. Suggest to your attorney questions to ask the opposing appraiser or about the opposing appraisal. Such questions might form a bona fide basis for discrediting the opposing appraiser or the opposing appraiser's report.

What makes a good expert witness? Be knowledge of the facts of the case in question, of the property being litigated and of the relevant overlying appraisal concepts. Prepare for testifying by carefully reviewing your own appraisal as well as all file materials provided to you by your attorney. Participate in the preparation of exhibits if necessary. Review your planned testimony with your attorney in advance of testifying or of giving a deposition.

Prior to trial or deposition, the attorney should discuss tips with the appraiser regarding giving testimony including how to answer questions, the appraiser's mannerisms, at whom to look when answering questions (i.e., to the questioner? judge? jury?).[575]

Presentation of Testimony or Deposition

When on the stand, your personal appearance is important. Be clean and neat, and dress conservatively. Avoid gaudy jewelry. Speak clearly, slowly and sound convincing. Do not be nervous or fidgety. If given a document to read or review, take your time to do so completely. Do not be rushed.

Experts should be likeable and personable with a confident voice, good eye contact, and proper demeanor.

To whom should you look when answering a question? Conventional wisdom is that the expert should look at the jury since the belief is that eye contact equals credibility. But trials are not conventional. Some feel an expert does not appear credible if his or her head is bouncing back and forth between counsel and the jury box. So, what should you do? In brief, for short, insignificant answers such as "What is your name?" look at the questioner. But for significant or lengthy answers, look at the jury. Be sure to get instructions from your attorney about this issue prior to your testimony.

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[575] For some tips that I found very useful when preparing for a deposition, see Appendix GG *Seven Essential Deposition Tips*.

When in front of the jury assume the demeanor of a friendly teacher. Speak at the level of an intelligent 16-year-old. Don't underestimate the intelligence of jurors. Try to explain the issues on the basis that the jurors have no background in the field of appraising or knowledge about the appraisal process or the value characteristics of the property being litigated.

Listen carefully to the questions you are asked. When under cross-examination, always pause for a few seconds before answering in order to allow time for your attorney to object if he or she feels the need to do so. Answering too quickly might prevent him from injecting an objection in a timely manner. If you do not understand a question, ask that it be repeated or that it be asked in a different way.

When answering a question, state your opinions clearly and simply. Do not ramble. If the question can be answered with a simple “Yes” or “No,” then do so without elaboration. The more you say the more doors are opened for the opposing attorney to ask additional and perhaps damaging questions. Do not volunteer information on cross examination unless it will clearly assist your side. Just answer the questions as asked.

Experts should be articulate and able to communicate truthfully in an ethical, objective and effective way. They should be sure of their opinions and not back down from them if pressured upon cross-examination. Never guess at an answer. Do not be afraid to say “I don’t know.” Experts should not deny uncertainty, but they should not overemphasize it either. Give in graciously if you said something in error, and always, always tell the truth!

Chapter 13: Legal Issues Affecting the Appraiser

As with any profession, it's good for the personal property appraiser to be conversant in legal issues that have had an impact on the profession in the past and/or which act as guideposts to help appraisers avoid legal pitfalls as they practice their profession. Having said that, appraisers are normally not attorneys or paralegals. Nor are they typically legal researchers or law consultants. Just as it is not the appraiser's responsibility to advise clients on legal matters, to draft legal documents, or to represent clients, neither is it the appraiser's responsibility to spend time conducting legal research in law libraries or on Internet law sites. Regardless, being familiar with landmark cases which have had an impact on our profession and understanding the issues raised and the decisions concluded make for a better all-around professional.

In this Chapter 13 we discuss legal issues which might affect an individual who is acting in the role of an appraiser. We will briefly address the issues and present summaries of interesting cases. But appraisers also perform in other roles outside that of an appraiser. As examples, many appraisers are also dealers, auctioneers, restoration specialists, and estate liquidators. When wearing those other hats, appraisers may be faced with legal issues which do not normally apply when performing strictly as an appraiser.

We will not spend time discussing legal matters which normally do not apply to the personal property appraiser, regardless of how significant they may be to other types of professionals. For instance, there are issues of contract, commercial and agency law with which other professions (such as dealers, estate liquidators, repair services and auctioneers) must be aware but which do not normally impact the appraiser. Included are commercial transactions, consignment sales, auction sales, warranties, fraud, disparagement, and performing as an agent on a principal's behalf. Instead, we will limit our discussion to the legal issues with which the appraiser might most frequently become involved. These most commonly include issues relating to bailment, title, fraud by a dealer/appraiser, appraiser liability to third-parties, and, albeit rarely, negligent referral.

Several Federal Tax Court cases will also be summarized to help us better understand issues to which the IRS is sensitive such as choice of appropriate market, definition of fair market value and valuation discounts.

Bailment

Bailment is a matter of property law with which appraisers may become involved, albeit rarely. A bailment occurs when an individual (the **bailor**) in lawful possession of a piece of personal property gives over possession of it to another individual (the **bailee**) for a specific purpose, with the understanding that once the purpose has been achieved, the personal property shall be surrendered back to the bailor. An appraiser who takes possession of a property in order to deliver it to an inspection or testing service in order to determine authenticity is an example of bailment.

Bailments apply to items which have been borrowed or loaned, items being transported by couriers, even customer goods in the possession of a restoration specialist. And on occasion, appraisers take property from the client for various reasons such as to get an item authenticated or tested for grade or genuineness. These are all examples of **bailment**.

A bailee has a duty to exercise reasonable care to protect the property and to return the property promptly when the task has been completed. **Duty of care** is the standard of legal duty that a reasonable person owes to others. Failure to use reasonable care could expose an individual to liability for **negligence** which is defined as conduct that is culpable because it falls short of what a reasonable person would do to protect another individual from foreseeable risks or harm.

There are three types of bailment scenarios—the difference between the three depends on who owes a duty of care and to what extent. As you will see in the below examples, the degree of care that must be taken and by whom in order for a party to avoid being negligent varies depending on who benefits from the bailment. The three kinds of bailment scenarios are:

- Those bailments in which the **bailor benefits** (such as the bailor storing valuables at a neighbor's house for safekeeping while the bailor goes on vacation). In this case, the bailee owes a **low** degree of care. In order to be held liable for damages done to the bailment, the bailee must be found **grossly** negligent.

- Those bailments in which the **bailee benefits** (such as the bailee borrowing a china dinnerware service from a neighbor for use at a dinner party). In this case, the bailee owes a high degree of care. The bailee must be very careful with the borrowed property because he or she could be found liable for any damages arising from even **slight** negligence.

- Those bailments in which **both bailor and bailee benefit** such as when a client allows the appraiser to take possession of a painting in order to get it authenticated. The bailor benefits by getting the painting authenticated. The bailee benefits by being paid for his or her services.

  While in the care and control of the appraiser, the client (bailor) expects that the appraiser will take care of their property, keep it reasonably safe, and return the property in the same condition in which it was received. Otherwise, the client will expect that the appraiser be responsible for his or her own negligence. In this third example, the bailee owes an **ordinary** degree of care.

  This is the type of bailment scenario in which an appraiser might become involved. In such a scenario, the appraiser would be well-advised to, at a minimum, take a reasonable amount of care when the item is in the appraiser's possession in order to prevent the property from being lost or damaged. Leaving a client's valuable painting in the back seat of an unlocked car on a hot day is not an example of the appraiser exercising reasonable care. To apply less than reasonable care could expose the appraiser to liability for negligence should damage or loss occur.

Having Good Title

Title is a legal term for the bundle of rights in a piece of property in which a party owns a legal interest. For some properties, such as a home or car, the conveyance of a document (i.e., the "title") may be required in order to legally transfer ownership in the property to another person.

Title is not the same as possession. One may be the rightful owner of a property and have the right of title, but may not possess it. Possession is the actual holding of a thing, whether or not the possessor has any real right to do so. But possession does not prove ownership. Indeed, one might

possess a property but not be its rightful owner, such as a thief who possesses but does not own stolen property.

What does all this have to do with the appraiser?

USPAP requires that the appraiser identify and state within the appraisal report the ownership interest being valued. (If there are no co-owners and if title is enjoyed solely by the client, then ownership interest is 100%.) In order to comply with USPAP, the appraiser typically makes certain assumptions regarding ownership—and that usually is to take at face value the client's assertion that he or she is the sole and rightful owner of the subject property. But are **assumptions** to title and ownership interest sufficient? Maybe not. Perhaps at times, the appraiser should do at least some cursory research (as should have the dealer in the below **Autocephalous** case note).

See **Autocephalous Greek-Orthodox Church v. Goldberg & Feldman Fine Arts, Inc.** below. This case has caused some to be of the opinion that, like the defendant/dealer, when faced with appraising valuable works of art, an appraiser should be alert to the possibility that the work has been stolen and should use due diligence in attempting to find out whether or not that is, indeed, the case. Oftentimes keeping abreast of the art market and making inquiries at such organizations as the International Foundation for Art Research (IFAR) (ifar.org) and the Art Loss Register (artloss.com) may suffice.

Others, however, do not feel it is the appraiser's responsibility to research whether or not an item has been stolen. Perhaps it might be necessary for works by a well-known artist, but certainly not for a round oak table! Regardless, in order to make it very clear that they are guaranteeing neither ownership interest nor title, most appraisers make use of assumptions and disclaimers to that effect in their appraisal reports, to wit:

- *Unless otherwise stated herein, the appraised values are based on the whole ownership and interest of the owner undiminished by any liens, fractional interest or any other form of encumbrance or alienation.*

- *This appraisal is not an indication or certificate of title or ownership. The identification of the interest of the owner is simply that represented to me by the client and no inquiry or investigation will be made nor is any opinion to be given as to the truth of such representation.*

The International Foundation for Art Research (ifar.org) provides a significant amount of material online to assist people in making informed decisions about the ethical and legal issues involved in the collecting of art. Included are resources regarding:

- *World War II-Era/Holocaust Related Art Loss* (U.S. and international civil and criminal cases relating to art believed to be looted or otherwise misappropriated during and after World War II.)

- *Cultural Property (Antiquities) Disputes Over Non-United States Property* (Includes claims, primarily by foreign countries, for art or objects said to be part of their cultural heritage under patrimony or export laws that restrict the ownership or export of certain types of objects; also includes U.S. Customs Actions or other Cases regarding cultural property brought into the U.S. in violation of U.S. law; and includes some international

cases not involving people or property in the U.S.)

- *United States Cultural Property* (Includes claims concerning U.S. cultural property said to be owned in violation of the Native American Graves Protection and Repatriation Act (NAGPRA) and of laws governing archaeological objects found on federal land.)

- *Art Theft Other than World War II and Cultural Property Looting* (Includes civil and criminal cases of theft and replevin (which means when the court requires a defendant to return specific goods to the plaintiff at the outset of the action, i.e., before judgment).)

- *Other Ownership Title Disputes/Claims Including Conversion and Breach of Contract* (Includes disputes over auction and gallery sales; voidable title; estate claims.)

- *Art Fraud, Attribution, Authenticity, Forgery, Libel, Defamatory Statements* (Includes civil and criminal cases of art fraud and forgery; disputes over expert opinion and catalogues raisonnés and authentication boards; disputes over attribution and authenticity.)

- *Valuation/Appraisal* (Cases concerning U.S. Tax Court decisions; estate valuations and other valuation issues.)

- *Copyright, Moral Rights and Other Issues* (Cases concerning an artist's moral right to his art; copyright violations; and disputes over art commissioned for display in public places.)

The Holocaust Expropriated Art Recovery Act of 2016 (HEAR)[576] was signed into law on December 16, 2016. This bill allows civil claims for the recovery of artwork or certain other property lost between January 1, 1933, and December 31, 1945, because of Nazi persecution to be commenced within six years after the claimant's actual discovery of: (1) the identity and location of the artwork or other property, and (2) a possessory interest in the artwork or property.

Such statutory limitation period of six years after actual discovery preempts any other statutes of limitation or defenses relating to the passage of time. Pre-existing claims known by a claimant before enactment of this bill shall be considered discovered on the date of this bill's enactment if they were barred before, or not barred on, the date of enactment.

Case Note: Having Good Title

Autocephalous Greek-Orthodox Church v. Goldberg & Feldman Fine Arts, Inc. 717 F. Supp. 1374 (S.D. Ind. 1989), aff'd 917 F.2d 278 (7th Cir. 1990) (mosaics). A number of Byzantine mosaics were looted from an Orthodox church in Cyprus sometime after 1974. The Church of Cyprus learned of the theft in 1979. The Republic of Cyprus and the Church immediately began an extensive campaign to recover the mosaics by publicizing the theft to a wide variety of international agencies, foreign governments, museums, and experts in Byzantine art.

In 1988 an Indiana art dealer, Peg Goldberg, purchased four of the mosaics for over $1M from a Turkish art dealer living in Germany. Cypriot authorities learned of the mosaics' location when

[576] See congress.gov/114/plaws/publ308/PLAW-114publ308.pdf.

Marion True, then curator at the J. Paul Getty Museum, notified them that the works were being offered for sale by an American art dealer. Goldberg refused requests to return the works.

In 1989 the Church of Cyprus and the Cypriot government brought a legal action in which the they sought to recover possession of the property they thought had been wrongfully taken or retained by another party. In light of the actions taken by Cyprus in publicizing the theft of the mosaics, the court concluded that the plaintiffs had exercised due diligence in attempting to recover the stolen mosaics and thus rejected Goldberg's claim that the suit was beyond the statute of limitations. Despite Goldberg's (unsubstantiated) allegations that she had contacted the International Foundation for Art Research (IFAR) and other organizations to confirm the propriety of the sale, the Court rejected Goldberg's argument that she was a good faith purchaser concluding that she failed to exercise due diligence in determining whether or not title on the property was clouded.[577]

Fraud by a Dealer/Appraiser

In the broadest sense, a fraud is a deception made for personal gain or to cause harm to another individual. The specific legal definition varies by legal jurisdiction. Defrauding people of money is a crime and is probably the most common type of fraud. While fraud is a crime, it could also be a civil law violation. Like negligence and malpractice ("malpractice" is negligence by a professional), fraud is a type of civil law violation known as a **tort**. Webster's defines a tort as:

> *Any wrongful act, damage, or injury done willfully, negligently, or in circumstances involving strict liability, but not involving breach of contract, for which a civil suit can be brought.*

A tort is a **civil** (not criminal) wrong for which the law provides a remedy. A civil fraud typically involves the act of intentionally making a "false representation" of a "material fact" with the intent to deceive, which act was reasonably relied upon by another person to that other person's eventual detriment.

A "false representation" can take many forms, such as:

- A false statement of fact, known to be false at the time it was made
- A statement of fact with no reasonable basis to make that statement
- A promise of future performance made with an intent, at the time the promise was made, not to perform as promised
- A statement of opinion based on a false statement of fact
- A statement of opinion that the maker knows to be false
- An expression of opinion that is false, made by one claiming or implying to have special knowledge of the subject matter of the opinion. "Special knowledge" in this case means

[577] See the Chapter 9 section entitled *A Word About Stolen Art* for a related discussion.

knowledge or information superior to that possessed by the other party, and to which the other party did not have equal access.

For the appraiser, the leading case on civil fraud is **Goldman v. Barnett** (see summary below) in which case a dealer/appraiser named Barnett was found guilty of intentionally making a false statement of material fact for the purpose of causing customer Goldman to make purchases of works of art which Barnett knew to be worth less than the value he had represented to Goldman.

Granted, this is a case involving a dealer, but it is of interest to us because it involves a dealer trying to act simultaneously in the role of an appraiser. Not a good idea. What can be learned from Goldman? In brief: avoid conflicts of interest, clearly state the type and definition of value and the intended use of the report, and be qualified to appraise the subject property.

Case Note: Dealer/Appraiser Fraud

Goldman v. Barnett 793 F. Supp 28 (D. Mass 1992) (art). This is a leading case on art fraud. David Goldman was a Massachusetts businessman. In 1988, he decided to purchase artwork to decorate his home and his office. On the recommendation of one of his employees, Goldman met with David Barnett, the owner of an art gallery in Milwaukee, Wisconsin.

Between May and August of 1988, Barnett convinced Goldman to purchase 66 works of art, including 12 which Barnett, acting as a dealer, held on consignment from the estate of the late 20th Century American artist Milton Avery. These works had been consigned directly to Barnett by Sally Avery, Milton Avery's widow. In nearly every instance, Mrs. Avery set a price for the works she consigned to Barnett and expected him to ask those prices as the selling price.

Before selling the artwork to Goldman, however, Barnett (now acting as an appraiser) told Goldman that he would give him a "fair market value" appraisal of each work of art. He then provided Goldman with an appraisal of each work of art with an appraised value and a purchase price. In fact, Barnett wrote Goldman that *"I spoke with Mrs. Avery...and did the best I could for you regarding price and payment schedules. I am pleased to be able to offer a 14% discount off of the appraised value of $1,028,035, or $886,185."* Based on Barnett's representations regarding the art's "fair market value," and the discount Goldman was getting from that value, Goldman accepted the deal to purchase the 66 works of art. He made a substantial down payment and agreed to pay $100,000 monthly until his debt was paid off.

After making several monthly payments, Goldman came to believe that his paintings were worth substantially less than their appraised "fair market value," and even less than the price he had agreed to pay. In fact, according to at least one expert, the art had a fair market value of less than a quarter of Barnett's appraised value, and less than a third of the amount Goldman agreed to pay. For example, Barnett sold Goldman one Avery painting called *Mandolin with Flowers* for $160,000, based on his appraisal of the work at $200,000. Ultimately, Goldman's expert located Barnett's actual purchase price for the work from Christies in December of 1987, just 6 months before he had sold it to Goldman, for $45,000. This was one quarter of Barnett's appraised value of $200,000 and one third of his selling price of $160,000. Consequently, Goldman stopped making payments and filed his suit. Goldman based his suit on eight counts, each of which was brought against both Barnett and the Avery Trust. Among these counts was a claim for fraud.

The Avery Trust, believing that even if the facts were as Goldman claimed them to be, Goldman would still lose his case, moved for summary judgment. The Court denied summary judgment

with regard to seven of the eight counts, ruling that if Goldman was able to prove the facts he had presented, a reasonable jury could find in his favor. Less than three weeks after this decision came down, the case settled.

The significance of this decision for art dealers and appraisers is that it is one of the first decisions to subject the dealer who is also acting as an appraiser to potential liability for fraud when their appraisals are found to be inaccurate. Although prior cases had found appraisers liable for **negligence**, liability for **fraud** may pose much more serious consequences for the dealer/appraiser. In many jurisdictions, finding of fraud could subject an appraiser to liability for triple or even punitive damages.

In **Goldman**, the judge ruled that there was sufficient evidence for a jury to find Barnett and the Avery Trust liable for fraud. This claim required a finding that Barnett, both individually and as an agent for the Avery Trust, made false statements of fact upon which Goldman relied in deciding to buy the art.

In so ruling, the Judge dismissed the Avery Trust's argument that Barnett's appraisal of the works of art was merely his opinion. Instead, the judge ruled that, because Barnett held himself out to be an expert art appraiser (with a specific expertise in works by Milton Avery) his representations that the art had a fixed "fair market value" could be viewed as a representation made by one possessing knowledge rather than by one merely expressing an "opinion." In this way, it could be treated as a **misrepresentation of fact** rather than opinion, and could subject Barnett to potential liability for fraud.

Fraud also requires a finding that Barnett made his representations to Goldman either knowing that his valuations were false or with the intent to deceive him so that Barnett could make a higher profit. In the Goldman case, the court found enough circumstantial evidence for a jury to conclude that Barnett knew that his representations were false, and that he made them in order to encourage Goldman to purchase the art. The judge made this finding based on the evidence that:

1. Barnett's appraisals were, on average, four times higher than the actual fair market value (according to at least one expert),

2. Barnett received a commission on his sales, inducing him to inflate the purchase price, and

3. Barnett held himself out as an expert appraiser, **indicating** that he did know the "true fair market value."

Therefore, the judge concluded that such appraisals by an interested party constitute circumstantial evidence of intent. With sufficient evidence to prove intent, Goldman had enough evidence to go to the jury on the issue of fraud.

Here are some suggestions for the appraiser that can be gleaned from **Goldman**:

- **Avoid conflicts of interest**: Do not appraise items you are selling. Dealers must avoid the potential conflict of interest that arises when a dealer appraises works of art for his buyer or seller. Suffice it to say, dealers should not appraise items they are buying, selling, or that they own.

- **Clearly state the type and definition of value and the intended use of the report**. Dealers must avoid any question about the type of valuation (i.e., the fair market vs. the replacement value) which is being applied. Barnett may have intended to give Goldman an appraisal for acquiring insurance coverage, since on some, but not all, of the appraisals, it stated that they were for insurance purposes. But Goldman claimed that Barnett had orally told him that these were "fair market value" appraisals—even though not one of the appraisals stated that they reflected fair market value of the works. Because many of the appraisals did state the type and definition of value developed, Goldman's oral statements to Barnett were enough to support the case for fraud. Always state the type and definition of value being employed, the intended use of the appraisal, and the data on which the opinion of value is based.

- **Be qualified to appraise the subject property**. An appraiser must make sure that he or she has the requisite expertise and information to render an appraisal upon which a buyer or seller may rely. Don't appraise anything about which you lack the knowledge or expertise—it can only get you into trouble.

Malpractice (Professional Negligence)

Another type of tort is "negligence," as is its professional counterpart, "malpractice."

In brief, negligence is the failure to use such "due care" as a reasonably prudent and careful person would use under similar circumstances to avoid injuring someone. But when it comes to professionals, "due care" is no longer based on what a reasonable person would do, but rather on what a reasonable **professional** would do under similar circumstances. Malpractice typically arises from a professional's misconduct or failure to use adequate levels of care, skill or diligence in the performance of the professional's duties and as a result harm is caused to another.

There are several typical theories of malpractice (many of which involve medical malpractice), but the primary theory affecting the personal property appraiser involves the lack of due care. In other words, the professional did not live up to the governing standards of professional care and conduct.

Malpractice typically occurs when a professional fails to exercise his or her professional skills at the level of care, skill and learning applied in similar circumstances by the average reputable member of the profession. Comparison of performance is based upon the standard of care for the professional within the appraisal "community"—in other words, what other professionals in the same field do for their clients. The nationally-accepted *Uniform Standards of Professional Appraisal Practice* (USPAP) combined with personal property appraisal societal standards have largely established what today is considered the standard of care expected of the professional personal property appraiser. Do you perform your appraisal practice services including appraisals and appraisal reviews in accordance with USPAP? You should.

The impact of increased professionalism (brought about by widely-recognized societal standards and by USPAP) has affected a dramatic improvement in the quality, understandability and credibility of appraisal reports. It has, however, also brought with it increased exposure and liability for appraisers. Having set a standard of professionalism and care for appraisers to follow, it is now much easier for plaintiffs' attorneys to impose liability upon appraisers for failure to follow those standards. As a result, appraisers who often appeared as expert witnesses, now find themselves in the dubious position of visiting the court room wearing the label of defendant.

Several factors determine whether an appraiser is liable for a negligently-prepared appraisal. First, what is the extent to which a personal property appraiser is considered a "professional"? Professionals are those who undertake any work calling for a special skill. A professional is required not only to exercise reasonable care in what he or she does, but also to possess a minimum standard of special knowledge and ability. Most cases involving professionals have dealt with physicians and surgeons. But the same standard applies to appraisers, dentists, pharmacists, psychiatrists, attorneys, architects, engineers, accountants and even many skill trades.

There is a growing tendency in the law to require those who practice in the appraisal profession to adhere to the professional's standard of care. See the **Soderberg v. McKinney** case note below for a California case which recognizes appraisers (albeit real property appraisers) as a category of "information-supplying professionals" not unlike accountants, lawyers and public auditors. As such, the appraiser can be held liable for negligence not only to the client but also to third-party users of the report even if those users were not identified as intended users by the appraiser.

Be aware that potential claimants for a malpractice action could include clients, the owner of the property, a prospective purchaser, a prospective lender (such as for a collateralized loan appraisal), other identified intended users, or even third-parties who were not intended to rely on the appraisal.

To help minimize claims for third-party liability, it is essential that you include in your appraisal report the identities of the client and intended users, a prohibition of use of the appraisal by others not so identified, limiting conditions encountered and extraordinary assumptions made, and any limitations on your competence and the steps taken to overcome those limitations.

Elements of a Suit

In order for malpractice to be actionable, injury, loss or damage must be suffered either by the person who retained the professional's services or by those otherwise entitled to benefit from or rely upon the professional's services (such as those identified "intended users" of an appraisal report).

Perhaps the most publicized forms of the tort are medical malpractice and legal malpractice, though malpractice suits against accountants, investment advisors, and real estate and business appraisers have also made the headlines recently. Actions against personal property appraisers for malpractice actions are seldom encountered, though the leading case of **Estate of Querbach v. A & B Appraisal Serv.** (summarized below) demonstrates the severity of the issue when they do.

As with negligence, in order for a malpractice case to be actionable, the following elements must be in place:

- **Duty**: A duty was owed by the professional to the plaintiff.
- **Breach**: There was a breach of that duty by the professional.
- **Causation**: There was injury to the plaintiff that was caused by that breach of duty, and

- **Damages**: There were damages to the plaintiff which resulted from the injury sustained.[578]

Appraisers Depend on Societal Standards and USPAP for Guidance

Unlike doctors or attorneys who have structured educational requirements, there are generally no similar educational requirements for personal property appraisers. There is no appraisal state bar to join or state appraisal examination to pass. States have no licensing or certification requirements for personal property appraisers.

Although an individual appraiser may have no required methodology to follow and although the appraiser's conclusions may depend on many factors, the appraiser's commitment to and compliance with his or her societal standards as well as with recognized professional standards such as USPAP enhances the credibility and reliability of the assignment report. The appraiser's compliance with such standards has the added benefit of enhancing the public's trust in the appraisal profession as well.

It is this utilization of high standards of competence in a specialty when combined with a distinct body of knowledge and a code of ethics that serves to identify an appraiser as a professional. As such, he or she will be judged in court not by the standard of a reasonably prudent person utilizing the skills of everyday experience, but rather by the experience, skill, training and learning of a professional appraiser. Thus, it is not enough that your appraisal was done with more care than a lay person would do it. It must be done with at least the minimum standard of care expected of a professional personal property appraiser who complies with generally accepted standards of the profession such as USPAP.

In view of the relatively few cases involving appraisers, the courts have not had an opportunity to set forth judicially-derived standards of conduct for the personal property appraiser. Thus, the courts are more likely to draw on standards formulated by The Appraisals Foundation's USPAP and by professional societies as was the case in **Querbach** when determining whether a particular appraiser's performance falls below the level of skill ordinarily possessed and exercised by a professional appraiser.

Case Note: Appraiser Malpractice

Estate of Querbach v. A & B Appraisal Serv. No. L-089362-85 (N.J. Sup. Ct. 1987) (art). Eleanor Querbach died on February 9, 1985, leaving a home furnished with antique clocks, antique furniture, paintings, Oriental rugs, and other unusual household furnishings. One of the legatees was the Sturbridge Village Museum in Massachusetts, who expressed an interest in acquiring some of Mrs. Querbach's antiques for its collection at the appraised fair market value of the antiques.

Therefore, the executor hired an appraiser, Benjamin Davis of the ISA, who worked for a company called A&B Appraisal Service, to evaluate the individual personal property of Mrs. Querbach. Mr. Davis made a room-by-room, item-by-item appraisal of Mrs. Querbach's personal

[578] Damages are usually considered to be an essential element of a malpractice claim. That is to say, even if a plaintiff can prove malpractice, a plaintiff is usually unable to sustain a suit unless the malpractice actually caused the plaintiff to suffer damages.

property. Three of the items he listed in the living room were what he called small unframed oil paintings which he valued at $50 each.

After receiving the appraisal from Mr. Davis, the executor sold one of the paintings to an acquaintance for $50. The acquaintance then took the painting to be framed at which time the framer advised him to go and get the artwork appraised. The second appraiser found the value of the painting to be $14,800, and the acquaintance, in delight, told the executor who had been under the impression that the value of the painting, as reported by Mr. Davis, was a mere $50. The executor sued Mr. Davis for damages.

The executor and his new appraiser claimed that the painting was by J. F. Cropsey, a renowned American artist of the Hudson River Valley School. They said that authenticity was established by the following cumulative evidence:

- The signature on the painting was *J.F. Cropsey, 1882*,
- The technique and pigments were typical of the Hudson River Valley School painters of the late 19th century,
- The stretcher frame on which the canvas was mounted was typical of that known to have been used by the Cropsey,
- The back of the painting had a remnant of a paper label typical of that used by the artist stating *"St. Lourdes, J.F. Cropsey, 57 West..."* and the artist was known to have a studio at the partial address shown on the label, and
- The subject matter of the painting was typical of the artist's known works.

Based on this evidence, the court found that the painting was an authentic J.F. Cropsey, painted in 1882.

The court then went on to find that the appraiser, Mr. Davis, was liable for the approximate difference between the fair market value of the painting ($14,800) and the amount the executor sold it for ($50). The court made this determination based on the fact that:

- Mr. Davis represented himself to be a member of the International Society of Appraisers, which had adopted a code of ethics and professional conduct with certain standards to be observed by their members, which apparently were not observed here,
- Mr. Davis was advised that the appraisal would be used for Internal Revenue purposes, and he had not followed Revenue Procedure Rule 66-49.[579]
- The public has a right to expect that persons holding themselves out to be appraisers of fine art are competent to recognize or utilize accepted professional procedures to identify and evaluate fine art, and

[579] See Appendix V *Revenue Procedure 66-49* and the Chapter 4 section entitled *Federal Tax Liability Applications* which explains how Rev. Proc. 66-49 has since been superseded for appraisals done with the intended use of noncash charitable contributions.

- Mr. Davis failed to meet his professional responsibilities as an appraiser when he neither recognized J.F. Cropsey as being a noted American painter, nor determined whether the artist's name had any significance in the art world, nor determined that the painting was a fine example of the Hudson River Valley School of Art, and obviously had made no close examination of either the front of the painting or the reverse side of the painting. Had he done so, he would, in all probability, have come to the correct conclusion.

The Court acknowledged the lack of cases involving professional standards and procedures for appraising fine art, but looked at the International Society of Appraiser's code of ethics and professional conduct in determining the standards an appraisal should meet. An appraisal should include a complete description, acquisition information, history of the item, photograph, and statement of factors on which the appraisal was based. The Court found that the defendant had failed in his professional responsibilities when he failed to see the artist's name on the painting or to recognize the painting's true value. The Court thus found the defendant was negligent, and that he had breached his duty to the plaintiff. The court entered judgment in favor of the plaintiff and against defendant in the amount of $14,700, plus prejudgment interest.

This case shows the danger to those who do appraisals of entire estates. You must be very careful. Don't try to do more than you are capable of doing. Look carefully at the items you are appraising. Regarding paintings—make sure to look for signatures on the front of paintings, labeling on the back of paintings, and then research the names you find. Hire an expert if need be, but in all cases, exercise due diligence. **Querbach** indicates that your failure to do so may lead to liability for malpractice.

Appraiser Liability to Third-Parties

Soderberg v. McKinney 44 Cal. App. 4th 1760, 52 Cal. Rptr. 2d 635 (1996). California Court of Appeals. This case deals with real estate appraisers, but **Soderberg** has the effect of increasing the legal exposure of all "information-supplying professionals" such as accountants, lawyers, public auditors, and personal property appraisers.

In **Soderberg**, the court held that a real estate appraiser could be liable to investors for misrepresentations contained in his appraisal, even though the appraiser had been retained by a mortgage broker rather than by the investors themselves. In **Soderberg** the investors sued the appraiser for negligent misrepresentation. Negligent misrepresentation is a type of tort. It refers to a false statement of fact made by one party to another party which has the effect of inducing that party into the contract.

Before **Soderberg** the law had been that no duty of care existed when unspecified third persons relied upon the appraisal; therefore, there could be no appraiser liability to third persons such as the above-mentioned investors.

In **Soderberg**, however, the appellate court held that an appraiser who prepares an inaccurate appraisal report could be held liable for negligent misrepresentation to third-party investors who make loans in reliance on the report. According to the appellate court, the appraiser need not even know the name or specific identity of the potential investor or the details of the contemplated transaction—liability may be appropriate where the appraiser *"...knows with substantial certainty that plaintiff, or the particular class of person to which plaintiff belongs, will rely on the representation in the course of the transaction."*

While perhaps not a complete cure, appraisers can take measures to help circumvent liability to unintended users within the appraisal report by expanding the disclaimers and terms of use clauses. Give clear notification that unintended third-party users rely on the appraisal to their peril. For instance, consider a statement such as:

> W*ith the exception of you (my client), your agent and identified intended users listed herein (if any), this appraisal report is not intended to be used by or influence any particular person(s) or class(es) of persons which might take some action in reliance upon it. Unless otherwise stated, I am not aware that you or your agent intend to transmit any information contained in this report to any other person(s) or group(s) other than to the appraiser-identified intended users listed herein. Regardless of who receives a copy of this report, my liability is limited to you and to the identified intended users of this report to the exclusion of all others. Parties other than those specifically listed as authorized intended users of this report who take some action in reliance upon this report do so at their own risk. Note that parties who receive a copy of this report as a consequence of disclosure requirements do not automatically become intended users. Intended users must be identified as such by me at the time of the assignment.*

Negligent Referral

Appraisers are frequently asked by a client (or a non-client for that matter) for a referral to someone capable of providing personal property related services such as an auctioneer, estate liquidator, restoration specialist or consignment service. Appraisers may also find themselves in a position of having to decline an appraisal and refer their client to a specialist appraiser for appraisal services of property outside the referring appraiser's specialty area.

Appraisers must be knowledgeable about the types of referrals they might be asked to make and be prepared to reply knowledgeably regardless of whether or not they choose to make a specific recommendation.

Examples of the types of services to which the appraiser might be asked to refer a client include:

- A specialist personal property appraiser
- Real or business property appraisers
- Repair or restoration specialists
- Conservators
- Specialist grading services (coins, stamps, sport cards, gems)
- Authenticators
- Laboratories for scientific testing to prove genuineness or composition
- Auction services to liquidate property
- Downsizing specialists
- Insurance specialists to discuss coverage needs
- Attorneys, financial advisors, estate planners, or visual arts advisors for issues relating to lifetime and testamentary ownership of high-worth assets
- Museums or historical societies as potential donees
- Museum curators for identification needs
- Accountants and tax specialists
- Dealers or other wholesale buyers

The issue of referrals was briefly addressed in the Chapter 8 section entitled *Fees Paid to Procure an Appraisal Assignment vs. Finder's (Referral) Fees.* Recall that **while performing as an appraiser**, accepting a finder's fee (a.k.a. referral fee) when referring an **appraisal** client to another **appraiser** is discouraged; however, there are no prohibitions to accepting **finder's fees** when referring non-appraisal clients to non-appraisers. Nor are there prohibitions against accepting finder's fees when performing in a capacity other than as an appraiser, such as while functioning as an auctioneer or estate liquidator.

In this section, we will elaborate on the issue of making referrals in general; and, though largely an insignificant issue for the appraiser,[580] we will caution against making referrals negligently.

The doctrine of **negligent referral** comes in two flavors. One involves an employer and a former employee. The second involves providing an individual with a referral to another service provider who, subsequently, performs at a substandard level. It this latter scenario in which the appraiser often becomes involved.

While the first type of negligent referral does not normally involve the appraisal profession, it should nonetheless be briefly brought to your attention. In this first form of negligent referral, an employer can be held liable for not revealing important information about a former employee—for instance failing to reveal truthful information as to why the former employee was fired to another company that is conducting a pre-employment investigation to determine the former employee's suitability for employment at the new company. As noted, this type of negligent referral seldom impacts the personal property appraiser.

But an appraiser could be liable in the second type of negligent referral which involves the act of referring someone to one who is not properly qualified, licensed or certified to perform a specific service.

The referral of someone by an appraiser to another appraiser (or to other professionals such as an auctioneer or estate liquidator) could be deemed negligent if the referring appraiser **knew** or **should have known** that the appraiser or third-party service provider to whom the referral was made would perform in a substandard manner. Although referrals generally improve the quality of service the person receives, it is possible that the person can instead be harmed if referred to a service provider known to be unqualified due to a lack of skill or judgment.[581]

Appraisers might respond to telephone inquiries by referring prospective clients seeking work the appraiser doesn't provide, or by referring existing clients who need other types of personal property related services. Referrals can also occur in a dinner conversation, after a presentation made to a service or fraternal organization, in emails and via website links.[582]

The most dangerous type of referral is one that results in a referral fee. That is why we discourage appraisers from accepting referral fees when referring an appraisal client to another appraiser. It does not matter if the fee was expected or simply offered as a gift. Accepting the fee can make the

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[580] I have never heard of an appraiser being charged with (much less found guilty) of negligent referral.
[581] Negligent referral can be very difficult to prove in cases where the referring appraiser had no prior knowledge about the referred-to service provider's lack of skill or judgment. For this reason, negligent referral is not a frequent cause of action.
[582] If your website provides links to other sites, your site's Terms of Use Policy should include a "link" disclaimer. Link disclaimers essentially state that by merely providing the links, your firm does not intend the links to constitute a client referral to, or an endorsement of, the linked entities.

referring appraiser more easily liable for the receiving appraiser's work. If the appraiser to whom you refer an appraisal client offers you a fee, you should decline it or suggest that the appraiser instead give the fee amount to the client as a discount for services rendered.

So, what are the appraiser's options regarding giving out referrals? The appraiser could refuse to give referrals. But telling the client to look in the phone book or online could cause the client to feel slighted by the appraiser's lack of knowledge about possible candidates for referral or by the appraiser's refusal to provide referrals. *"What do you mean you can't refer me to anyone? Isn't that what you are supposed to be able to do?"*

Alternatively, use good judgment when selecting appraisers, specialists or consultants for referrals and avoid referring clients to any professional who you are aware fails to practice according to the recognized standard of his or her profession.[583] If possible, provide more than one name, make no promises regarding the receiving person's qualifications or work, and, finally, do not accept referral fees from other appraiser when performing as an appraiser.

Tax Court Cases: Most Appropriate Market

The following US Tax Court cases address issues related to the appraiser's choice of the appropriate market in which to conduct research. Recall that in Step 3 of the appraisal process, the appraiser must select the appropriate market from which market data that forms the basis for the appraiser's opinions of value will be collected. Selecting the wrong market will invariably prevent the appraiser from developing credible assignment results.

Anselmo v. Commissioner 80 T.C. 872 (1983), aff'd 757 F.2d 11208 (11thCir. 1985) (gemstones). The dispute in this case focused on establishing the most appropriate market for a large number of loose, cut but un-mounted, low-quality Bolivian gemstones for the purpose of determining the stones' fair market value for donation purposes. The major issue of contention revolved around markets the experts assumed when valuing the stones.

The Anselmo experts valued the gems as though they were mounted in typical finished jewelry items and sold in retail stores. They valued each gem by determining the portion of a piece of jewelry's retail price that represented the value of the gem. The IRS's experts, on the other hand, valued the gems on the assumption that the stones would be sold together as a bulk to a single jewelry manufacturer or retail jeweler who would use them in the manufacture of finished pieces of jewelry.

Accordingly, the court rejected the taxpayer's proposition that the most common market was the market in which the individual member of the public made a purchase at the jewelry store. Instead, the court ruled that the most common purchaser would be a jewelry manufacturer or a jewelry store who would buy the gemstones in bulk.

This case states that the word "public" in the Treasury Regulation definition of fair market value refers to the customary purchasers of an item and not all purchasers. Thus, the **customary** purchasers of a large quantity of un-mounted low-quality gemstones are jewelry manufacturers and not individuals.

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[583] This, by the way, would normally restrict my appraisal referrals to those appraisers I know comply with USPAP.

Engel v. Commissioner 66 T.C.M. (CCH) 378 (1993) (animal trophy mounts). The court was faced with valuing wild game trophy mounts (for which there was not an active sales market) being donated to a museum. The taxpayer had attempted to deduct the replacement cost of the items which, he contended, included the cost of airline tickets to Africa in addition to the cost of a safari and all its attendant expenses. The court noted that *"based upon the record in this case, there is not sufficient showing of an active market and comparable sales to warrant exclusive reliance upon that method of valuation as respondent (the IRS) would have us do. On the other hand, there also is not a total lack of market as to require the use of replacement cost alone as the donor's expert advocates."* In effect, the court said that when a market has little activity, it should not be relied upon exclusively as a basis for fair market value. But neither does a market with minimal activity warrant the use exclusively of the replacement cost approach. There must be a "reasonable relationship" between replacement cost and fair market value in order for replacement cost to be an acceptable representation of fair market value.

> **Epilogue**: The Pension Protection Act of 2006 changed the amount allowed for the deduction of donated taxidermy property. Deductions are now limited to the donor's basis in the property or its fair market value, whichever is less. "Basis" for this purpose includes only the cost of preparing, stuffing and mounting the property. (It does not include cost of time, transportation costs, travel costs or other costs directly or indirectly associated with hunting or killing an animal. In other words, the donor cannot deduct the cost of an African safari!)

Biagiotti v. Commissioner 52 T.C.M. (CCH) 939 (1986) (pre-Columbian art). The best market to research for the valuation of pre-Columbian and Mayan art was the market in which collectors made purchases from private dealers, not what collectors paid at auction. Collectors of properties of potentially dubious provenance, such as pre-Columbian and Mayan art, most often prefer private dealers who offer guarantees of authenticity and special connoisseurship in their specialty. Thus, for such property auction sales would not be the most appropriate marketplace for determining fair market value because such markets would not be representative of the majority of sales of such art in the United States and would not be indicative of the average sale prices of this type of property. In view of this, the Tax Court found that using Sotheby's auction sales as a basis for value was not appropriate. The court limited the appropriate marketplace to private dealer sales which were a better measure of the market in which collectors of such items most commonly make their purchases.

Ferrari v. Commissioner 58 T.C.M. (CCH 221 (1989) (pre-Columbian art). This is another case that found the best indication of fair market value for pre-Columbian art would be a range of prices (not a single price point) from the retail gallery market and not from auction sales. Based on the testimony of both experts, the Tax Court determined the applicable market for pre-Columbian art to be the retail market at art galleries where buyers typically want to rely on the guarantee of authenticity and the connoisseurship of the dealer. The court further found that galleries have no uniform way of pricing such art. Rather, pricing is essentially a question of judgment, experience, the price paid by the gallery to obtain an object, and the gallery's level of mark-up. Thus, it concluded that the fair market value with respect to pre-Columbian art is not a single price but a range of prices.

Quedlinburg Treasures. In 1945 WWII medieval treasures were stolen and shipped home to Texas by the decedent who was a soldier at the time. Upon the soldier's death, the treasures were considered as part of the decedent's estate because under Estate Tax regulations ownership is based *"upon a decedent's possession of the economic equivalent of ownership, rather than upon*

the decedent's possession of a technical legal title." The estate's attorneys argued that since there was no market for stolen art, value was zero. The IRS argued that there were individuals in the "discreet retail market" who would purchase the items and so concluded that the fair market value of the art objects was *"the highest price that would have been paid, at the time of the decedent's death, whether in the discreet retail market or in the legitimate art market."* This issue resulted in the IRS issuing **Priv. Ltr. Rul. 9152005** stating that fair market value of stolen art objects was the highest price that purchasers would have paid whether in the illicit or legitimate art market.

Skripak v. Commissioner 84 T.C. 265 (1985) (books). The taxpayer purchased a large number of scholarly reprints of professional books from the publisher for one third of the list price and later donated them. The taxpayer claimed a deduction of the full retail catalog list price. The court allowed the deduction despite it being a tax shelter with the clear goal of obtaining a deduction, but did not allow the claimed value. The court allowed a fair market value of only 20% of catalog list price which was less than the taxpayer originally paid! In **Skripak**, the court applied blockage arguing that the simultaneous marketing of all the books at one time would have a depressing effect on the market. This might have been inappropriate since the "Valuation Guide for IRS Agents" states that a blockage discount *"applies only to estate tax valuations and not to charitable contribution valuations, since the taxpayer (contributor) actually controls the market by how many items are contributed."* In the Hunter case below, the court got it right by not allowing the application of blockage to a charitable contribution valuation.

Hunter v. Commissioner 51 T.C.M. (CCH) 1533 (1986) (prints). The taxpayer bought a bulk of lithographs from a middleman who had purchased them as excess stock from a gallery. The middleman sold them for about one quarter of their retail gallery price to the taxpayer. The taxpayer donated them and claimed a deduction of the full gallery list price. The court dismissed the IRS contention that a blockage discount should be applied. The court, however, concluded that the deduction was limited to what the taxpayer paid for the prints since the relevant retail market level for such a bulk purchase was the middleman-to-donor level and not the gallery-to-retail customer level. *"The most probative evidence of the fair market value of the prints is the amount petitioners paid for them,"* the court concluded.

Lio v. Commissioner 85 T.C. 56 (1985) (prints). This case is similar to Hunter v. Commissioner in that the court limits the deduction to the amount actually paid by the taxpayers for the prints as part of a tax shelter. However, in Lio the court rules that the "ultimate consumer" is one who **does not hold the item for subsequent resale, at least in the item's current form.** The court also defines "appropriate market" as the **most active marketplace** for the particular item involved regardless of whether the market is considered primary or secondary.

Goldman v. Commissioner 46 T.C. 136 (1966), aff'd 388 F.2d 476 (6th Cir. 1967) (books). Taxpayer donated **outdated** medical journals but claimed an amount of deduction equal to the average retail sales price for **current** issues. The court disallowed the deduction stating that the only market available to an owner of such books was a second-hand book dealer. As such, the fair market value of the books is equal to what a second-hand book dealer would pay.

Tax Court Cases: Fair Market Value

In addition to the above issues dealing with the appropriate market to research, several Tax Court cases focus on the definition of "Fair Market Value" itself.



Estate of Eva Kollsman v. Commissioner T.C. Memo 2017-40 (an estate appraisal). In a June 21, 2019 appeal of this 2017 Tax Court case, the 9th Circuit U.S. Court of Appeals upheld the Tax Court which was found to have correctly determined the Fair Market Value of two Old Masters paintings (*Village Kermesse with Dance Around the Maypole* and *Orpheus Charming the Animals*), which values greatly exceeded the values developed by the estate's expert, George Wachter (an employee of a major auction house).

Relying on the IRS expert, the Tax Court determined the fair market value for *Maypole* to be $2,400,000 and for *Orpheus* to be $600,000. This is as opposed to the fair market value as determined by the estate which was $500,000 for *Maypole* and $100,000 for *Orpheus*. The difference if their respective opinions of FMV resulted in a deficiency in estate taxes due of $585,836. Tax Court's findings include:

- That Wachter failed to make use of comparable sales in support of his opinions of value as typically done in such assignments; rather, he expected that his opinion would be accepted merely because of his experience and expertise. i.e., because he said it was so. The Tax Court considered this failure to use comparable sales to be "remarkable."

- That Wachter exaggerated the dirtiness of the paintings and the risks inherent in cleaning them. Wachter's opinion was not supported by a qualified art conservator who subsequently testified that the paintings could be easily cleaned and that, other than the accumulated grime, the paintings themselves were in good condition.

- That the eventual sale price of *Maypole* for $2,434,500 in January 2009 was evidence of it having a value far exceeding Wachter's opinion of $500,000 as of the date of death which occurred three-and-a-half years earlier in 2005.

  Regarding such post-effective date comparable sales, the Tax Court acknowledged that, in general, comparable sales occurring after the effective date of the appraisal (which was in this case the date of death, August 31, 2005) usually are not considered when valuing property for federal tax purposes; regardless, *Maypole's* sales price is an indicator of the market's condition as of 2009. Wachter was unable to adequately explain why such an increase in value could possibly have occurred between the date of death in 2005 ($500,000) and the sale for $2,434,500 in 2009, leading to the conclusion that the value as of the date of death was, indeed, much higher than a mere $500,000.

- That Wachter sought exclusive rights to sell the works at the same time he was providing his opinions of fair market value, thus compromising his objectivity. Doing so appeared to incentivize the appraiser to undervalue the works in order to save the estate taxes—currying favor with the estate in the hopes of obtaining the paintings for consignment sale through his auction house.

This case should be an eye-opener for appraisers who neglect to practice in accordance with the performance and ethical standards USPAP. Most significantly: understand and make use of proper appraisal methodology including the use of appropriate comparable sales as a basis for an opinion of value; avoid conflicts of interest in order to maintain objectivity; and perform appraisals in compliance with USPAP in order to help ensure the preservation of public trust in the appraisal profession.

> *Consumers are the biggest beneficiaries of this ruling. Personal property assets will be better protected when a qualified and independent appraiser is retained to value one's personal property assets. This also means wealth managers and estate attorneys now have a greater fiduciary duty to their clients to fully understand appraiser qualification criteria and appraisal standards when vetting personal property appraisal experts.* (John Brenan, Vice President of Appraisal Issues at The Appraisal Foundation, July 26, 2019)

Ashkar v. Commissioner 61 T.C.M. (CCH) 1657 (1991) (ancient biblical fragments). Neither the taxpayer's nor the IRS experts were appraisers. They were academic scholars. The court rejected both appraisals and instead made use of an **offer to buy** (which was close to the average of the values offered by the two experts) as being reflective of fair market value.

Perdue v. Commissioner 62 T.C.M. (CCH) 845 (1991) (gold artifacts from a sunken Spanish ship). The Tax Court concluded that a premium in value could be added when valuing the artifacts in recognition of the excitement and the glamour associated with the fact that the items were recovered from a sunken Spanish ship—the equivalent of a "glamour market" appeal.

Doherty v. Commissioner 63 T.C.M. (CCH) 2112 (1992) (Charles Russell painting). Two eminently-qualified experts could not conclude genuineness. One valued it as genuine at $200,000. One as a fake at $100. The court did not rule on the issue of authenticity, but assigned a value of $30,000 stating that a dispute over authenticity causes a depressing effect on value.

Lightman v. Commissioner 50 T.C.M. (CCH) 266 (1985) (art) and **Rhoades v. Commissioner** 55 T.C.M. (CCH) 1159 (1988) (opals). In both these cases, the court recognized that an advantageous purchase by the taxpayer (perhaps as a result of a price concession made by the seller) could result in a price paid that was not indicative of fair market value but, rather, could have been much less than fair market value. Accordingly, the court used auction prices to establish the fair market value of the donated property which value was higher than the taxpayer's purchase price.

Mast v. Commissioner 56 T.C.M. (CCH) 1.522 (1989) (glass stereoscopic negatives). The court sided with the taxpayer's valuation of $1.25M since the taxpayer's appraiser made use of market comparisons with reported sales, auction catalog sales prices, showroom and gallery pricing, opinions from leading galleries, as well as auction house estimates. The court rejected the IRS's appraiser who based a value conclusion ($450K) on five items which the court decided were not comparable.

Williford v. Commissioner 64 T.C.M. (CCH) 422 (1992) (art). Past comparable sales and documented private sales are the best evidence of fair market value. But secrecy and the lack of the private transactions that take place outside the auction house create challenges for the appraiser. Regardless, in **Williford** the court concluded that the appraiser has an obligation to identify the subject property's most common market and, if necessary, to obtain the necessary private sales data by retaining the services of experts, dealers and consultants who are familiar with the property type.

Tax Court Case: Buyer's Premium

Scull v. Commissioner 67 T.C.M. (CCH) 2953 (1994); see also **Scull v. Scull**, 462 N.Y.S.2d 890 (N.Y. App. Div. 1983), appeal dismissed, (works of Pop art). The court held that the proper measure of fair market value is what could be received on, not what is retained from, a

hypothetical sale. Accordingly, the hammer price plus the buyer's premium should be includable in the decedent's estate for federal estate tax purposes. But this ruling has little practical application in most estates because the buyer's premium is often deductible by the estate as an administration expense, but only if the sale was required in order to pay taxes or decedent's debts or other expenses of administration—but not otherwise such as in selling just to divide property equitably among heirs. Appraisals should state whether or not comparable sales include the buyer's premium and the amount of the premium.

Scull relied (whether correctly or not is in dispute) on **Publicker v. Commissioner** 206 F.2d 250 (3rd Cir. 1953) (gift tax appraisal of jewelry) in which the court ruled that the fair market value of the jewelry was the *"price at which such property would change hands between a willing buyer and willing seller includes the excise tax paid by the purchaser of the property."*

Tax Court Cases: Blockage Discount

Smith v. Commissioner 57 T.C. 650 11972, aff'd 510 F2d 479 (2nd Cir. 1975, cert. denied, 423 U.S. 827 (1975) (numerous art works by the deceased in the decedent's estate). The estate for noted artist David Smith argued that the value for 425 of the deceased's sculptures should be discounted by 75% due to the negative impact on value which would be caused by offering such a large number of items to the market at one time. The estate also requested an additional one-third discount as an allowance for the commission that would be needed to pay the dealer who would affect such a sale. The court acknowledged that a blockage effect existed but permitted only a 50% discount instead of the requested 75%. The court disallowed the petitioner's one-third sales commission discount observing that fair market value reflects what is to be **received** and not what is to be **retained** from a hypothetical sale. The Tax Court gave official approval to the acceptance of making use of the concept of blockage when valuing art for estate tax purposes. The court recognized the depressing effect on value the simultaneous availability of an extremely large number of items of the same general category would cause. But the court provided no guidance on how to determine the blockage discount.

O'Keeffe v. Commissioner 63 T.C.M. (CCH) 2699 (1992) Unlike the Smith case, in **O'Keeffe** the Tax Court sets forth a rational, mechanical way to compute the blockage discount. In **O'Keeffe**, the Tax Court recognized that it would be unreasonable and unadvisable for the estate to dump a large number of similar items on the market on the valuation date. To do so would invite a depression in values from which recovery could take years. Instead, a more advisable approach would be to stagger the sale of properties over a long period of time (perhaps years) in order to maximize sales prices. Important Tax Court conclusions include:

- It is not necessary that it be assumed that all artwork be dumped on the market at a single point in time.
- Artwork, if varying in quality and condition, should be segmented into that which can be sold in a relatively short period of time and that which would require an extended period of time to liquidate.
- A present worth analysis of the anticipated future stream of income would be an appropriate valuation technique.

- The deduction of carrying costs and anticipated future expenses is relevant and should be considered.

- Bequeathed works may not be excluded from the taxable gross estate.

Tax Court Case: After Death Discount

Scull v. Commissioner 67 T.C.M. (CCH) 2953 (1994). What if the decedent's property being sold appreciates in value between the date of death and the eventual sale of the property? In **Scull**, the executors sold works of art owned by the estate through public auction over ten months following the date of death. During that ten-month period, it was shown by the estate that the works of art had appreciated in value. Consequently, the works of art sold at public auction for significantly more than they would have had they instead been sold on the date of death, which is the normal effective date of valuation for estate tax purposes. The Tax Court agreed and allowed a 15% discount to the sales results in order to compensate for "after death appreciation."

U.S. Dist. Court Case: Fractional Interest Discount

Stone v. Commissioner No. 3:06-cv-00259 (25 May 2007) (19 Impressionist paintings). The Estate owned one-half interest in the paintings. For the first time, a discount to value was allowed for an undivided interest in personal property. The Court stipulated that the Estate was entitled to claim a 5% discount based on its ownership of only a fractional (one-half) interest in the paintings.[584]

Another example of the Tax Court considering fractional interest discounts can be found in **Estate of Elkins v. Commissioner (140 TC 86, 3/11/13)**.



James Elkins was a wealthy businessman who structured his estate purposely so that his estate would own a fractional interest in each of his valuable paintings. It was hoped that the resulting fractional interest discount would significantly reduce federal estate taxes upon his death. The Tax Court granted a 10% fractional interest discount which was subsequently challenged as being insufficient. In the Fifth Circuit [**Estate of Elkins v. Commissioner (2014-2 USTC ¶60,683 (CA-5), 9/15/14**)], the ruling was reaffirmed that a fractional interest discount is appropriate, but that a 10% discount was insufficient. Based on the estate's expert witness and what the court considered to be credible evidence, the court ruled that a discount of 44.75% was the correct percentage discount to apply.

This case should not necessarily be considered as a win for the estates of future wealthy art-owners expecting an automatic 44.75% fractional interest discount. In **Elkins**, the IRS did not offer evidence challenging the estate's expert witness as they might have. Had they, the discount allowed by the Tax Court might have been significantly less.

Tax Court Case: Deduction Allowed for Donation of Contraband

Sammons v. Commissioner 838 F2d. 330 (9th Cir. 1988) (Native American contraband artifacts). Mr. Sammons donated a collection of American Indian artifacts to the Museum of North

[584] See the Chapter 5 section entitled *Fractional Interest Discounts (a.k.a. Minority Interest Discounts)* for a discussion of this case.

American Cultures. The IRS contended on two counts that the Sammons should be disallowed a deduction for the 35 eagle artifacts which incorporated feathers, claws, or other parts of birds protected under the Bald Eagle Protection Act (16 U.S.C. §§ 668-668d), the Migratory Bird Treaty Act (16 U.S.C. §§ 703-711), and the Endangered Species Act (16 U.S.C. §§ 1531-1543).

Firstly, the IRS argued that relevant federal statutes prohibited the Sammons from obtaining title to the artifacts. Specifically, *"that where a statute expressly forbids or penalizes a person from entering into a certain kind of contract, the contract itself is void."* (Citing S. Williston, A Treatise on the Law of Contracts, 1972).

It does appear that the Sammons may have violated federal law when they purchased the artifacts. But the Tax Court ruled that reliance on Williston is misplaced. If a statute prohibits an agreement or sale, the result is *"that the courts will not lend their aid to any attempted enforcement of the agreement of the parties."* The Sammons case does not involve an ownership dispute between parties. The Sammons may have made an illegal contract, but no one is seeking, or defending, enforcement of the contract of purchase or the subsequent gift. Therefore, the Sammons had a sufficient ownership interest in the artifacts to contribute them to the museum. The government might have instituted a proceeding seeking forfeiture of the artifacts under the Eagle Protection Act or the Endangered Species Act, but it did not do so.

Secondly, the IRS argued that even if the Sammons had title to the artifacts, allowing a deduction for the contribution of these items to the museum will frustrate public policy. Federal law makes it illegal to acquire or possess the eagle artifacts. To allow the Sammons a deduction for donating the artifacts to the museum, claimed the IRS, would encourage a violation of federal law by subsidizing (through tax benefits flowing from the donation) illegal transactions.

Note that The Eagle Protection Act makes it a federal crime to *"...take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or in any manner, any bald eagle commonly known as the American eagle, or any golden eagle, dead or alive, or any part, nest, or egg thereof..."* (16 U.S.C. §688(a)).

Similarly, the Migratory Bird Treaty Act provides that *"...it shall be unlawful at any time, by any means or in any manner, to pursue, hunt, take, capture, kill, attempt to take, capture, or kill, possess, offer for sale, sell, offer to barter, barter, offer to purchase, purchase, deliver for shipment, ship, exported, or imported, delivered for transportation, transport or cause to be carried, or receive for shipment, transportation, carriage, or export, any migratory bird, any part, nest, or egg of any such bird, or any product, whether or not manufactured, which consists, or is composed in whole or in part, of any such bird or any part, nest, or egg thereof..."* (16 U.S.C. §703).

The Tax Court cited **Commissioner v. Sullivan** *"Income tax deductions are a matter of grace and Congress can...disallow them as it chooses."* and **Commissioner v. Tellier** *"[W]here Congress has been wholly silent, [the Court has upheld a disallowance]...[o]nly where the allowance of [the] deduction would frustrate sharply defined national or state policies proscribing particular types of conduct...Further, the policies frustrated must be national or state policies evidenced by some governmental declaration of them...[and] the test of non-deductibility always is the severity and immediacy of the frustration resulting from allowance of the deduction."*

The Tax Court recognized the high priority Congress has assigned to the policy of protecting endangered species, such as those in the Sammons donation. However, based on the following, the court concluded that public policy did not prevent the Sammons from claiming a deduction for donating the eagle artifacts to the museum:

- There was no showing that the donation would severely or immediately frustrate national or state policy.
- While the allowance might encourage others to donate endangered species artifacts, no evidence was shown proving that allowing for the deduction would encourage the killing or acquisition of protected species.
- This deduction was not viewed as a threat to the national policy of protecting endangered bird species.
- There was no suggestion made that the donation would encourage unscrupulous sellers of Indian art to hunt, capture, and kill protected eagle species in an effort to manufacture "ancient" artifacts that could be sold to collectors, unsuspecting or not, for spurious donations to charitable organizations.

Tax Court Cases: Is USPAP Compliance Determinant?

Is whether or not the appraiser prepares a USPAP-compliant report the determining factor as to whether or not the resulting appraisal report will be accepted by the Tax Court? The jury is still split. Two cases shed light on the question: **Whitehouse** and **Kohler**

1. **Whitehouse Hotel v. Commissioner** 131 T.C. No. 10 (a business appraisal) specifically mentions USPAP compliance by the business appraiser as not being determinant. Rather, reliability is determinant. The IRS appraiser submitted an appraisal that did not fully comply with USPAP. The taxpayer argued that the appraiser's report was per se unreliable since it was not in conformance with USPAP. The IRS further argued that the report should, therefore, not be received into evidence.

   But the Tax Court held "*…that expert testimony be based on "reliable principles and methods," and we will not supplant our responsibility to assess an expert appraiser's reliability by accepting USPAP as the defining standard of reliability; failure to adhere to USPAP may affect the weight we accord to an expert appraiser's testimony; that failure does not, however, necessarily preclude our receiving the expert's testimony into evidence; [appraiser A's] testimony is the product of the application of reliable principles and methods of valuation to sufficient facts and data [and is hereby accepted as evidence]…"*

   The Tax Court rejected that IRS argument and admitted the appraisal into evidence. It offered the following explanation for its holding:

   "USPAP is widely-recognized and accepted as containing standards applicable to the appraisal profession. Adherence to those standards is evidence that the appraiser is applying methods that are generally accepted within the appraisal profession. Therefore, at a minimum, compliance with USPAP is an indication that the appraiser's valuation

report is reliable. However, a noncompliant valuation report is not per se unreliable. Full compliance with professional standards is not the sole measure of an expert's reliability. Petitioner [i.e., taxpayer] *essentially asks the Court to supplant its responsibility to assess an expert's reliability with a rigid standard of reliability. Sole reliance on USPAP is a far more inflexible definition of reliability than the definition (depending on "reliable principles and methods") incorporated into Rule 702 of the Federal Rules of Evidence. Therefore, we decline to adopt USPAP as the sole standard for reliability of an expert appraiser."*

2. **Kohler v. Commissioner** (T.C. Memo 2006-152) (a business appraisal), on the other hand, mentions lack of USPAP compliance by the business appraiser as one of the factors causing the court to give no weight to Dr. Hakala's (the IRS' appraiser) conclusions.

   Dr. Hakala's Background and Certifications: Although Dr. Hakala has a doctorate from the University of Minnesota and is a chartered financial analyst, he is not a member of the American Society of Appraisers (ASA) nor the Appraisal Foundation. Dr. Hakala's report also was not submitted in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP)*. Dr. Hakala did not provide the customary USPAP certification, which assures readers that the appraiser has no bias regarding the parties, no other persons besides those listed provided professional assistance, and that the conclusions in the report were developed in conformity with USPAP.*

   Analysis: We have several significant concerns about the reliability of Dr. Hakala's report. These concerns lead us to place no weight on Dr. Hakala's report as evidence of the value of the Kohler stock the estate held. We have previously discussed the lack of customary certification of Dr. Hakala's report and that his report was not prepared in accordance with all USPAP standards. We also have already noted that Dr. Hakala admitted that his original report submitted to the Court before trial overvalued the estate's Kohler stock by $11 million, or more than 7 percent of the value he finally decided was correct. This is not a minor mistake. When we doubt the judgment of an expert witness on one point, we become reluctant to accept the expert's conclusions on other points. ***Brewer Quality Homes, Inc. v. Commissioner****, T.C. Memo. 2003-200, affd. 122 Fed. Appx. 88 (5th Cir. 2004).*

   By the way, normally the burden of proof falls on the taxpayer, but in **Kohler**, the court agreed to shift the burden of proof from Petitioner (taxpayer) to the Respondent (IRS) stating, "*At trial, we granted the estate's motion to shift the burden of proof to respondent, because we found that the estate introduced credible evidence including the testimony of several factual witnesses, substantiated items, maintained records, and cooperated with respondent's reasonable requests."*

   So, it appears that in **Whitehouse**, reliability and methodology rather than compliance with USPAP is of paramount importance in determining whether or not to accept the appraiser's conclusions. But in **Kohler**, failure to comply with USPAP was a definite factor in the Tax Court's decision to give no weight to the appraiser's conclusions.

Who Owns an Appraisal?

As indicated in the 2020-2021 USPAP FAQ #298, USPAP does not address who owns an appraisal report, the research used to produce the report or the report's workfile or other

supporting documentation, but **Hall** (in addressing the issue of appraiser-client confidentiality) establishes that the **appraisals are property of the client**.

Estate of Robert G. Hall No. 81-155 [P. Ct., Piscataguis, ME, Aug. 8, 1983]. In Hall, the court found that the client of the appraiser, not the appraiser's heirs, owns the appraisal.

Hall, an appraiser, died and his estate contained many appraisal reports which, during Hall's lifetime, were regarded as confidential material between his clients and himself. Appraisals made for his clients were not disclosed to third-parties. The question seems to be whether, upon his death, these appraisals may be disclosed to third-parties, which in this case would be Hall's estate beneficiaries.

The court found that Hall, as an independent contractor and appraiser, was entitled during his lifetime to possess and retain copies of any appraisals done by him together with any attendant working papers pertaining to such appraisals for his future use and reference in his business, but the heirs of Hall are not entitled to the same right.

The court found that copies of the appraisals in question were not the property of Hall, although Hall had a right to possess copies thereof during his lifetime. Therefore, the appraisals are not the property of Hall's estate. The appraisals are the property of the clients who paid for them and for whom they were done.

The court ordered that the copies of the appraisals done by Hall should be properly disposed of by the estate's personal representative in a manner designed to protect their confidential nature.

The court did not consider the question of transfer of ownership of appraisal report copies should Hall, for example, have been selling his appraisal business to a successor. **Hall** suggests (but is not conclusive) that the transfer of appraisal records to a successor would be acceptable if the successor is prepared to honor the confidentiality of the records.

Buying or Selling an Appraisal Business

On occasion, an appraiser may wish to sell his or her appraisal business. If doing so, certain USPAP obligations apply to both the selling appraiser as well as to the acquiring appraiser.

The selling appraiser is obligated by the Confidentiality section of the ETHICS RULE to, in part, protect the confidential nature of the appraiser-client relationship which includes not disclosing assignment results or confidential information to anyone other than the client or those persons specifically authorized by the client. The selling appraiser also has record keeping obligations as set forth by the RECORD KEEPING RULE regarding maintaining custody of assignment workfiles.

Both of these obligations can be met by the selling appraiser retaining possession of the workfiles. But in order for the selling appraiser to disclose assignment results and confidential information that is in the workfiles to the buyer, the selling appraiser must get client authorization to do so, or risk being in violation of USPAP.

The acquiring appraiser also has USPAP obligations—but they are different than those facing the selling appraiser. The buyer of the appraisal business does not have an appraiser-client

relationship with the clients of the selling appraiser. Instead, the buyer has the general USPAP obligation to protect the public's trust in the appraisal profession. Accordingly, when workfile access is granted, the acquiring appraiser should treat the confidential information and assignment results in compliance with USPAP, and should honor the workfile retention, access and retrieval arrangements that were originally made by the selling appraiser in accordance with the RECORD KEEPING RULE of USPAP. (2020-2021 USPAP FAQs #72 and #73)[585]

Laws Affecting Possession of or Trade in Contraband Property

Appraisers should be aware of the existence of laws governing the possession and/or trafficking in certain types of property that we refer to as "contraband." For purposes of this discussion we will define contraband property as that property for which it is illegal to transfer ownership through commerce (as opposed to gifting or bequeathing an item). In some cases, it might even be illegal to possess the property or to transport it across state lines, but it is almost always illegal to "commercialize" the property, i.e., to sell it, purchase it, barter for it, etc. Excluding illegal drugs in which we are not interested if appraising, contraband property generally falls into two categories—cultural property, and flora and fauna.

- **Cultural property** involves property that is be owned in violation of the *Native American Graves Protection and Repatriation Act (NAGPRA)* and of other laws governing archaeological objects found on federal land.

- **Flora and Fauna:** For our purposes, restrictions on the ownership and/or trade of flora and fauna usually falls into the category of owning items which are products or parts of endangered species such as certain ivory, eagle feathers, tortoise shells, rhinoceros' horns, etc.

Protected Cultural Property

An example of contraband property is certain Native American artifacts. Several laws have been passed over the years to protect historic sites and resources. Laws include the *Antiquities Act of 1906* (more formally known as *An Act for the Preservation of American Antiquities*), and the *Federal Land Policy and Management Act*. These acts empower federal agencies to protect, preserve, and manage archaeological and historic sites, land and resources that are situated on federal lands.

The *Archaeological Resources Protection Act of 1979* prohibits damage or defacement in addition to unpermitted excavation or removal of archeological artifacts or materials from protected sites. Also prohibited are selling, purchasing and other trafficking activities whether within the United States or internationally. The act also prohibits interstate or international sale, purchase or transport of any archeological resource excavated or removed in violation of a state or local law, ordinance or regulation.

The most comprehensive and recent such act focusing strictly on Native American artifacts is the federal government's *Native American Graves Protection and Repatriation Act (NAGPRA)* (NPS.gov/nagpra) which was passed in 1990. NAGPRA prohibits the excavation of Native American graves on tribal and federal lands. It also calls for the return of ancestral remains, burial

[585] See the Chapter 8 section entitled *Ethical Obligations to Clients* for related discussions regarding confidentiality and the appraiser-client relationship.

objects and other "cultural items." The act requires museums that receive federal funds to complete inventories and summaries of Native American cultural items in their collections, publish notices in the Federal Register and repatriate Native American human remains, funerary objects, sacred objects and objects of cultural patrimony to lineal descendants and culturally affiliated Indian tribes and Native Hawaiian organizations. The law also forbids the buying and selling of these particular objects on the market—which is where the law applies to individual collectors.

The law does not, however, prohibit the owning of the items—just the commercializing of them. If you inherited such an item, it would not be illegal to keep possession of it, but it would be illegal to sell or otherwise commercialize the item.

What types of property are covered by NAGRPA? Included are human remains, funerary objects, sacred objects and objects of cultural patrimony found on federal and tribal lands.

- **Funerary objects** are items placed with a human body or made to contain human remains at the time of burial.

- **Sacred objects** are specific ceremonial objects necessary for the practice of traditional Native American religions.

- **Cultural patrimony** includes items that were once owned by the entire tribe (rather than by an individual), and thus was considered inalienable at the time it left the tribe's possession.

Protected Flora and Fauna

Other examples of contraband property are items made from parts of protected species of flora or fauna such as American bald eagle feathers. The *Bald and Golden Eagle Protection Act* makes it a federal crime to:

> *...take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or in any manner, any bald eagle commonly known as the American eagle, or any golden eagle, dead or alive, or any part, nest, or egg thereof. (16 U.S.C. §688(a)).*

Additional acts established to protect other types of endangered species of flora and fauna have similar restrictions and include:

- *Marine Mammal Protection Act of 1972*. With few exceptions, it is illegal to take or import marine mammals or marine mammal products or for any person, with respect to any marine mammal taken in violation of the law, to possess that mammal or any product from that mammal, or for any person to transport, purchase, sell, export, or offer to purchase, sell, or export any marine mammal or marine mammal product.

- *Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).* CITES is an international agreement between governments. Its aim is to ensure that international trade in specimens of wild animals and plants does not threaten their survival. Annually, international wildlife trade is estimated to be worth billions of dollars and to include hundreds of millions of plant and animal specimens. The trade is diverse,

ranging from live animals and plants to a vast array of wildlife products derived from them, including food products, raw and worked elephant ivory, exotic leather goods, wooden musical instruments, timber, tourist curios and medicines. Levels of exploitation of some animal and plant species are high and the trade in them, together with other factors such as habitat loss, is capable of heavily depleting their populations and even bringing some species close to extinction.

- *African Elephant Conservation Act.* Through the African Elephant Conservation Act, passed in 1988 by the U.S. Congress, a moratorium on the import of African elephant ivory was established in 1989. This moratorium, still in place, makes it illegal to import raw African elephant ivory into the U.S. from any country unless certain conditions are met.

- *Endangered Species Act (1973).* ESA protects species of flora and fauna that have been placed on the federal list of endangered and threatened wildlife and plants. The act protects threatened species and their habitats by prohibiting the "take" of listed animals and the interstate or international trade in listed plants and animals, including their parts and products except under federal permit. (Such permits generally are available for conservation and scientific purposes.)

  Note that effective July 6, 2016, the U.S. Fish & Wildlife Services released its new rules revising Section 4(d) of the ESA regarding the sale, transfer, donation, or other disposition of African elephant ivory or items containing parts thereof. The rule also creates a de minimis exemption and clarifies what is considered to be "antique" ivory. Please visit fws.org for the latest information regarding this proposed rule.

- *Migratory Bird Treaty Act.* The *Migratory Bird Treaty Act* decreed that all migratory birds and their parts were fully protected. The statute makes it unlawful to pursue, hunt, take, capture, kill or sell birds listed as "migratory birds." The statute does not discriminate between live or dead birds and also grants full protection to any bird parts including feathers, eggs and nests. Over 800 species are currently on the list.

Appendices

Appendix A: Client Data Form & Assignment Activity Log

Client Data Form & Assignment Activity Log

File No._____ Date Called: _____

Intended Use:	**Purpose of Appraisal (value type)**:	Appointment Date(s):
Client Name:		
Wphone:	Hphone:	Fax:
Cell:	Email:	

Contact Name, address, phone (if different from client):	Owner Name, Address, Phone (if different from client):
Intended Users (if any):	**Assignment conditions**: (hypothetical conditions, limiting conditions, extraordinary assumptions):
Property Address, Phone at location:	**Effective Date of Appraisal:**
Special Instructions:	
Type of Property to be Appraised:	Fee/Rate Quoted:
	Retainer Required:

Assignment Activity Log

Date	Start	Stop	Time	Charge	Activity
		Total:			

Mileage: $	Consultants: $	Photos: $	Other Charges for: _____ $
Total Charged: $	Paid On Acct: $		Balance Due: $
Appraisal Mailed on:	Balance Due Received on:		

Appendix B: Appraiser's Log Sheet Continuation Page

Client: _____
_____

Date	Start	Stop	Time	Charge	Activity
		Total:			

Appendix C: Contract for Appraisal Services (with Private Party)

COMPANY LETTERHEAD

In consideration of this contract between **[appraiser name]** of **[appraiser company name and address]**, hereinafter referred to as "Appraiser," and

[client name]
[street address]
[city, state, zip]
[if for estate: **For the Estate of John Q. Public, deceased]**

hereinafter referred to as "Client," said parties agree as follows:

1. The Appraiser agrees to examine and appraise specified items of personal property at the below location(s) and to prepare an appraisal report to document the property's **[**e.g., **fair market value]** for the intended use of **[**e.g., **estate settlement]**:

[street address]
[city, state, zip]

2. In return for said services and appraisal report, Client hereby agrees to compensate Appraiser in the amount of **[$X]** per man/hour for time spent on the project (three-hour minimum). Compensation is to be paid for time spent for travel, on site, report preparation and ordinary research time. The final report is to be delivered via email as a PDF attachment. Account balance is due and payable prior to delivery of said report.
3. Articles of personal property which, at the Appraiser's prerogative, require a specialist for authentication or consultation or which require extraordinary research time to authenticate and/or evaluate are subject to separate negotiations between the Appraiser and the Client and may involve retaining the services of a specialist appraiser.
4. Should, in conjunction with this appraisal, additional services of the Appraiser be requested by the Client, his or her agent or attorney, or the court (such as for added time researching for other value purposes, pretrial conferences, court appearances, court preparations, etc.), client agrees to compensate Appraiser at the customary rate charged by the Appraiser for such services as of that date. Payment for such additional services shall become due and payable in accordance with the written agreement for said services.
5. Client holds Appraiser harmless and free of liability for damages accidentally arising out of or in any way related to the Appraiser's routine inspection of the personal property that is the subject of this agreement.
6. Client agrees to indemnify, hold harmless and will defend Appraiser for any actions, cause of action, claims, demands, or expenses presented to and/or against Appraiser as a result of this assignment.
7. Appraiser shall not be liable to the Client in excess of the compensation paid to the Appraiser under this Agreement as a result of any act or omission by the appraiser not amounting to a willful or intentional wrong.
8. In the event of default by the Client and subsequent litigation and/or the placement of this account in the hands of an attorney and/or agency for collection, the undersigned agree(s) to pay all collection costs and expenses thereof including, but not limited to, collection fees of one third of the outstanding balance, attorney's fees of one third of the outstanding balance, court costs, and post-judgment interest at the rate of 15% per annum.

Comments: ___ [Example: **At times the appraiser might not collect any payments at all until the report is ready for delivery. If that is the case, note that here with a hand-written comment.]** _____

Offered: _____*Appraiser's Signature*_____
[appraiser's typed name] | [date]

The above fees, specifications, terms and conditions are hereby accepted. The Appraiser is authorized to do the work as specified and payment will be made as outlined above.

Accepted: _____
[client's typed name] | [date]

Appendix D: Contract for Appraisal Services (with Attorney)

Following this letter is a second example letter which combines an attorney agreement with a letter of introduction. At times, the appraiser receives a call from an attorney who agrees over the phone to retain the appraiser's services. In such cases, you might wish to reply with the second example which combines both a brief history of your appraisal-related experiences along with an agreement letter.

COMPANY LETTERHEAD

[date] **[optional**: Sent via email to ***email address***]

[name of attorney]
[law firm name]
[street address]
[city, state, zip]

Re: **[name of case or matter]**

Dear _____:

Thank you for your request for my proposal to appraise **[general description of property to be appraised]** in the above-referenced matter.

I understand the purpose of this appraisal is to determine the **[e.g., fair market value, replacement value, forced liquidation value, etc.]** in connection with **[e.g., the division of community property in your client's marital dissolution action, litigation regarding wrongful removal, determine basis for estate tax, etc.]**

I understand that the property to be appraised is more specifically described as **[more detailed description or listing of property]** and is located and available for inspection at **[location of property; discuss any special arrangements necessary for you to gain access to the property].**

I will prepare and furnish you with a written appraisal report that will contain a value opinion for the appraised items. To the extent necessary, my opinions will be supported by any documents, data, photographs and references I might have used at arriving at my conclusions. The report will be prepared in compliance with the *Uniform Standards of Professional Appraisal* Practice (USPAP).

[Use if needed:] I understand that the subject property may include specialty items for which the assistance of specialist appraisers may be required. As such items are encountered, I will discuss with you the need to expand the scope of work in order to incorporate such assistance, including expenses associated therewith. I also anticipate the need to provide you with appraisal consultation services during this assignment. My below fee schedule does not include charges incurred as a result of retaining the services of expert appraisers. Any such expenses will be due and payable directly to the expert appraiser upon presentation of an invoice to you by the expert appraiser.

The fee for my appraisal services including the preparation of my appraisal report is $____ per hour billable in increments of one-quarter **[one-tenth?]** hour. An assignment retainer fee of $_____ is payable upon acceptance of this proposal. The balance of any remaining fee is due prior to the delivery of the completed appraisal report to you and/or your client. Any unused retainer will be refunded to you upon the conclusion of this assignment.

The above fee does not include a charge for me to give deposition or court testimony, should that be required. My fee for such services is $____ per day, with a half-day minimum, including round-trip

travel time from my office. For the purpose of computing the fee for court or deposition appearances, time amounting to one-half day or less will be treated as one-half day, whereas time in excess of one-half day will be treated as a full day.

For travel outside **[choose which counties you are willing to drive to or within without billing for travel expenses]** county**[ies]**, actual travel expenses, and, if necessary, lodging expenses, will be billed separately. For depositions or court appearances I require a one-day retainer fee of $_____ plus payment in full of all prior balances not later than 24 hours in advance of any scheduled deposition or court appearance, or I shall not be obligated to appear. I also require at least one day's advance notice of any cancellation of a scheduled court or deposition appearance. An appearance fee of one-half day ($_____) will be charged if the one day's advance notice is not received.

The above fee also does not include a charge for consultation, negotiation or other services associated with this assignment. My fee for such services is $_____ per hour, billable in increments of one-quarter **[one-tenth?]** hour.

[Use the following paragraph if possible, or the one that follows if the lawyer insists.]

[Either:]

I will send all invoices for my services and expenses directly to you, and you agree to be responsible for the prompt payment thereof. In the event I am forced to initiate litigation to collect any portion of my fees or expenses, the prevailing party shall recover their reasonable attorney's fees and costs.

[Or:]

While I will send all invoices for my services and expenses in care of your office, I acknowledge that **[name of lawyer's client]** is solely responsible for the payment thereof. Your acceptance of this proposal shall constitute your representation and warranty that you have been expressly authorized by **[name of lawyer's client]** to retain me on the terms authorized and conditions set forth herein. In the event I am forced to initiate litigation to collect any portion of my fees or expenses, the prevailing party shall recover their reasonable attorney fees and costs.

I will keep this proposal open for a period of **[30? 60?]** days for your acceptance. From what information I have gathered to date, I anticipate that the appraisal will take approximately **[10? 30?]** days to complete after the receipt of your signed authorization to proceed and the initial retainer fee, and after having completed my on-site inspection**.** Due to the need to schedule appraisal assignments in advance, this time estimate is subject to revision according to my work load. Your prompt reply will assure that your project will receive my earliest attention.

Thank you for giving me the opportunity to be of service to you and your client. If these terms meet with your approval, please so indicate by signing in the space below and returning a copy of this letter to me along with the required $_____ retainer fee as indicated herein.

Sincerely,

Appraiser's Signature
[appraiser's typed name]

Accepted and approved:

[law firm name]

By: _____
[typed name of attorney]

Date: _____

Contract for Appraisal Services (with Attorney) combining agreement with letter of introduction

At times, the appraiser receives a call from an attorney who agrees over the phone to retain the appraiser's services. In such cases, you might wish to reply with a letter combining both a brief history of your appraisal-related experiences along with an agreement letter.

COMPANY LETTERHEAD

[date] **[optional**: Sent via email to ***email address***]

[name of attorney]
[law firm name]
[street address]
[city, state, zip]

Re: **[name of case or matter]**

Dear _____:

Thank you for calling to discuss retaining my services for providing appraisal-related services in the referenced litigation matter.

[Summarize your appraisal-related experience, noting that your Professional Profile is attached as an enclosure.] I was a dealer in antiques for several years prior to 1982 at which time I founded Frederick Appraisal Services…You will find a more complete list of my qualifications in the enclosed Professional Profile.

My appraisals and reports are prepared in conformity with and are subject to the performance and ethical standards set forth in the *Uniform Standards of Professional Appraisal Practice* (*USPAP),* which is promulgated by The Appraisal Foundation of Washington, DC.

Primarily, I serve the entire central Atlantic state region including Virginia, West Virginia, Delaware, Washington DC, New Jersey, Pennsylvania and Maryland; however, I'll be happy to help wherever I am needed.

The fee for my appraisal-related services including inspections, research, appraisal reports, appraisal review reports and consultations is $___ per hour billable in increments of one-quarter hour. A retainer fee of $___ is payable upon acceptance of this proposal, and the balance of the fee is due upon delivery of the completed report to you.

The above fee does not include a charge for me to give deposition or court testimony, should such be required. My fee for such services is $_____ per day or $_____ per half day, including round-trip travel time from my office. For the purpose of computing the fee for court or deposition appearances, time amounting to one-half day or less will be treated as one-half day, whereas time in excess of one-half day will be treated as a full day. For travel outside the metro Washington DC area, actual travel expenses, and, if necessary, meals and lodging expenses, will be billed separately. I require at least one day's advance notice of the cancellation of a scheduled court or deposition appearance, and, in lieu of this notice, I will charge an appearance fee of one-half day. I also require an additional retainer fee of one-half day plus payment in full of all prior balances

not later than 24 hours in advance of any scheduled deposition or court appearance, or I shall not be obligated to appear.

I will send all invoices for my services and expenses directly to you, and you agree to be responsible for the prompt payment thereof. In the event I am forced to initiate litigation to collect any portion of my fees or expenses, the prevailing party shall recover their reasonable attorney's fees and costs.

Please indicate that these terms meet with your approval by signing in the space below and returning the countersigned copy of this letter to me along with the required $1500 initial retainer fee.

Sincerely,

Appraiser's Signature

[appraiser's typed name]

Enc.: Professional Profile

Accepted and approved:

[law firm name]

By: _____

Date: _____

Appendix E: Expert Witness Engagement Letter (to Attorney)

COMPANY LETTERHEAD

[date] **[optional**: Sent via email to ***email address***]

[name of attorney]
[law firm name]
[street address]
[city, state, zip]

Re: **[name of case or matter]**

Dear _____:

This letter confirms that you have retained me as an expert witness in the above cited matter.

Pursuant to our agreement, I will provide services to you as an independent professional. Payment to me for the services I provide is not dependent upon my findings; or on the outcome of any legal action, mediation, arbitration; or on the amount or terms of any settlement of the underlying legal cause; or on any contractual arrangement between you and any other person or party.

My minimum non-refundable engagement retainer fee for services is $_____ which shall be due at the time you sign this letter and return it to me. Billings for services performed or expenses incurred shall be charged against the engagement retainer fee until such time as it is exhausted. You may not identify me as either a testifying or non-testifying expert until such time as the engagement fee has been paid.

You agree to compensate me for services rendered as follows:

Fees for my services: Except as outlined herein, I shall be paid by you at the rate of $_____ per hour for all tasks performed under this agreement, including, but not limited to, review and analysis of relevant materials, the development of my opinions and/or conclusions, preparation of reports and exhibits, and necessary travel time. Fees will be billed in one-quarter **[one-tenth?]** hour increments.

For testimony at deposition or trial, my fee is $_____ per day or $_____ per half day plus expenses including round-trip travel time from my office. For the purpose of computing the fee for court or deposition appearances, time amounting to one-half day or less will be treated as one-half day, whereas time in excess of one-half day will be treated as a full day. I also require an additional retainer fee of one-half day plus payment in full of all prior balances not later than 24 hours in advance of any scheduled deposition or court appearance, or I shall not be obligated to appear.

You agree to reimburse me for expenses as follows: **[Use as you feel necessary.]**

1. Travel by car: **[40? 50? 60?]** cents per mile.
2. Travel by air or train: The actual cost of the round-trip ticket, plus a ten percent (10%) handling fee.
3. Expenses associated with photography, reproduction of documents and photographs, preparation of exhibits, storage of materials or evidence, and other reasonable expenditures shall be reimbursed at market rates.
4. Lodging: For any travel of more than **[50? 100?]** miles from my office, I shall be reimbursed for the cost of meals and lodging, plus a ten percent (10%) handling fee.

5. Car rental: In the event of travel beyond the local area, I shall be reimbursed for the cost of a mid-sized rental car and any associated expenses, plus a ten percent (10%) handling fee.
6. Unless you otherwise instruct, or unless refundable tickets are not available, I will purchase refundable tickets for any necessary travel. Should you request that I purchase non-refundable tickets in order to travel at a lower cost, or if refundable tickets are not available, you shall reimburse me for the cost of any non-refundable ticket at the rate outlined herein whether or not the ticket is used.

You may avoid the above-mentioned ten percent handling fee associated with certain travel expenses by arranging to directly purchase round-trip travel tickets on my behalf and by arranging for the direct payment of any car rental expense, lodging, and meal expenses by your office.

You have had the opportunity to investigate and verify my credentials, and you agree that I am qualified to perform the services described in this contract.

You are responsible for all payments as outlined in this contract, regardless of any arrangement you may have with any party or parties you represent. I will issue bills on a monthly basis, or whatever other interval I deem appropriate. Bills are due on receipt, and shall be considered delinquent if unpaid more than thirty days after their date of issuance. Interest shall accrue to any delinquent balance at the maximum rate permitted by law, not to exceed 1.5 per cent per month. In the event that a bill remains unpaid for sixty or more days after the date of issuance, I shall have the unrestricted right to resign from performing additional services for you and your firm on any and all cases that I am working on for your firm.

This agreement shall be interpreted under the laws of the state of **[state}**. Any litigation under this agreement shall be resolved in the trial courts of **[county, state]**.

Your signature below represents your agreement with the terms set forth herein. Please return a signed copy of this letter to my office, along with the required engagement retainer fee.

Sincerely,

Appraiser's Signature

[appraiser's typed name]

Accepted and approved:

[law firm name]

By: _____
[typed name of attorney]

Date: _____

Appendix F: Pre-Appraisal Preparation Checklist

In order to expedite your upcoming appraisal, please consider the following suggestions:

- Definitely decide on which items you want to have appraised.
- Ensure that items located in the attic, basement, closets and out-buildings are open for view.
- Unpack items that are in storage trunks or boxes.
- Put all things of like kind together such as flatware, crystal and dinnerware services.
- There should be adequate lighting.
- Gather together any receipts, sales slips or earlier appraisals, if any.
- Large pieces of furniture may need to be pulled away from the wall or paintings taken down in order to inspect the back. Be prepared to remove any lamps or breakables which might be damaged in the process.
- If a vehicle is to be appraised, please have it, its registration and its title available for my inspection.
- If this is an estate appraisal, please provide me with the decedent's date of death. If there is a will, please ensure that all items specifically bequeathed in the will are available for my inspection.
- Having a stepladder handy will facilitate my inspection if there are items on high shelves.

If you don't have time or are unable to do all the above preparations prior to my arrival, don't worry—I'll manage.

The appraisal will be done room-by-room. We'll begin in one corner of each room and go around the room in a clockwise fashion. When one room is complete, we'll proceed to the next. Normally the attic is done first when it's the coolest. We'll work downwards from there, finishing with the basement, garage and outbuildings. Please feel free to call me if you have any questions.

Sincerely,

Appraiser's Signature
[appraiser's typed name]

Appendix G: Sample Professional Profile

for

DAVID J. MALONEY, AOA CM
dave@maloney.com—davidmaloney.com
January 1, 2020

Academic Background

- Bachelor of Science in Engineering, 1970, U.S. Coast Guard Academy.
- Masters in Management, 1975, U.S. Naval Postgraduate School.
- Graduate of University of Maryland University College/International Society of Appraisers Core Courses in Appraisal Studies:
  - Course 101: Ethics, Business Practices, Communications
  - Course 102: Identification and Authentication, Research, Terminology, Report Writing
  - Course 103: Legal Aspects of Appraising, Case Studies, Expert Witness, IRS Report Writing
- Graduate of Southampton College Appraisal Certificate Program courses:
  - Course 101: Procedures & Methodology of Appraising Antiques and Other Decorative Arts
  - Course 102: Understanding the Language of Ornament
  - Course 103: Evolution of Style in Furniture
- Attended Appraiser's continuing education lecture series including:
  - "The Appraiser's Role in the Division of Property in Divorce Cases"
  - "Workshop on Writing Appraisals"
  - "Appraising Estates: Working with Attorneys and Probate Judges"
  - "The Appraiser as an Expert Opinion Witness"
  - "Appraisals and the IRS: Knowing Your Art and Proving It"
  - "The Appraiser and the Insurance Broker"
  - "The Bank Trust Officer and the Appraiser"
  - "Appraising Vehicles, Machinery, and Equipment"
- Subscribes to numerous antiques, collectibles and other trade publications

Professional Background

- Dealer in American antiques and collectibles, 1975-1982
- Founded Frederick Appraisal, Claims & Estate Services, April 1982
- Qualified as Certified Member, International Society of Appraisers (ISA) 1995
- Past-Regional Director of the ISA
- Past Member of the Board of Directors of the ISA
- Past Vice-President of the ISA
- Twice past-President, past-Treasurer and Charter Member of the award-winning National Capital Area Chapter of the ISA
- Past-member, ISA Examination Committee for "Certified Appraiser of Personal Property" designator
- Past-chairman, ISA Education Committee
- Past-chairman ISA Chapters Relations Committee
- Past ISA representative to The Appraisal Foundation Advisory Committee, Washington DC
- ISA on-site *Appraisal Core Course in Appraisal Studies* rewrite project leader 1994; maintained and taught these courses from 1994 to 2001
- Team leader to convert on-site ISA course in Appraisal Studies to Distance Education 1998
- Wrote ISA's *Chapter's Manua*l, the ISA *Appraisal Report Writing Standard* booklet, and ISA's *Requalification Course*
- Instructor of *ISA Core Courses in Appraisal Studies* and *ISA Requalification Course* from 1994 to 2001
- Instructor, Montgomery County Adult Education program in "Antiques"
- Guest Speaker on "The Tools of the Appraiser and the Use of a Computer" and "Appraisal Practices in Moving Claims" at numerous appraisers' seminars and at the Philadelphia Antiques Show
- Guest Speaker on "The Necessity of Appraisals" at numerous Claims Prevention and Procedure Council (CPPC) Eastern Regional Seminars and Annual Conventions
- Guest Speaker at the CPPC and American Moving and Storage Association (AMSA) joint Convention
- Guest Speaker on "Treasurers-not-Trash" at numerous civic and social club gatherings
- Guest speaker to Antiques & Collectibles Dealer Association
- Frequent radio talk show guest appearing on WRC, Washington DC, WFMD, Frederick, MD, KCEO, San Diego, CA and several other radio talk shows
- Host of Public Television series *Collecting Across America*

- Chief Appraisal Officer for and guest appraiser on PAX TV series *Treasures in Your Home: The World of Collecting*
- Information Provider on the CompuServe Information Service, Collectibles Forum
- Author of articles on appraising and claims inspections for ISA's "Appraisers Information Exchange" and for the "CPPC Newsletter"
- Contributing Author to the *California Household Goods Carriers' Claims Training & Reference Manual*
- Contributing Editor to *Everyone's Money Book* (Goodman, Jordan E. and Bloch, H.I. Sonny, Dearborn Financial Publishing, Inc., 1993)
- Recipient of the International Society of Appraisers' "Marketing Award," "Distinguished Service Award," "Lamp of Knowledge Award," "Member-of-the-Year Award," "President's Award," and "**Lifetime Achievement Award**"
- Quoted by *Woman's Day, Washington Post, Kiplinger's Personal Finance Magazine, Good Housekeeping, U.S. News & World Report, Redbook, Arthritis Today Magazine, Baltimore Sun Newspaper, Seattle Times, Physicians Financial News, Frederick News Post*, and in major antiques & collectibles trade publications
- Experienced as an expert witness in Maryland, West Virginia and Virginia
- Maintained major computerized data base of 20,000 resources for over 3200 categories of antiques, collectibles, fine art, and machinery and equipment, and author of *Maloney's Antiques & Collectibles Resource Directory – 7th Edition* (F & W Publications) (1995 to 2003)
- Designed and maintains *MaloneysDirectory.com*, the online version of *Maloney's Antiques & Collectibles Resource Directory* (2010 to present)
- Chief Appraisal Officer, ChannelSpace Entertainment Inc. and CollectingChannel.com 1999-2006
- Instructor, Institute of Certified Canadian Auctioneers (ICCA) 2001, 2003, 2005
- Author of the 550+ webpage *Complete Online Course in Personal Property Appraising* (2003)
- Qualified as Certified Member, Association of Online Appraisers 2001
- Secretary/Treasurer and Past President of the Association of Online Appraisers
- Architect and Director of the online appraisal service, *AskTheAppraiser.com* 2001 to 2006
- Author of *Appraising Personal Property: Principles and Methodology* (Appraisers Press 2007-present)
- Author of *The Personal Property Appraiser's Guide to USPAP* (Appraisers Press 2008-2010)
- Author of *Compete Online Course in Personal Property Appraising Featuring USPAP* (2008-present)
- Author of the online course, *How to Write Appraisal Reports* (2011-present)
- Co-author of *Appraisal Course Associates Online USPSP Update Courses* (2009 to present)
- Recipient of ISA's Publication Award for *Appraising Personal Property: Principles and Methodology*
- Chief Appraisal Officer, ValueThisNow.com (2011 to present)

Associations

- Claims Prevention and Procedure Council (Past Board of Directors)
- International Society of Appraisers (Past-Vice President, Board of Directors) (1981-2002)
- National Capital Area Chapter, ISA (Past-President) (1981-2002)
- Certified Member, Association of Online Appraisers (Past-President)

Selected Clients Include

- State Farm Insurance Co.
- Marshall and Ilsley Trust Co.
- D.O.D., F.B.I and State Dept. Personnel
- Atlas Van Lines
- United Van Lines
- USAA Insurance Co.
- The Williamsburg Corp.
- Nationwide Moving and Storage
- The Historical Society of Frederick County
- Washington County Museum of Fine Arts
- Federal Savings and Loan Insurance Corp.
- Allied Van Lines
- Graebel Movers
- Meadows Van Lines
- Fireman's Fund Ins. Co.
- Home Insurance Co.
- State Farm Insurance Co.
- Marshall and Ilsley Trust Co.
- D.O.D., F.B.I and State Dept. Personnel

Appendix H: Sterling Silver Flatware Inventory

Manufacturer: _____ Condition: _____

____Active _____Inactive _____Made to Order (MTO) _____Obsolete

#	Description	L	W	M	Each	Total	#	Description	L	W	M	Each	Total
	Asparagus fork							Ice tongs					
	Baby fork							Infant serving spoon					
	Baby spoon							Jelly server					
	Bacon fork							Lemon fork					
	Bar knife							Letter opener					
	Bar spoon							Lettuce fork					
	Bent handle baby spoon							Mayonnaise ladle					
	Berry spoon (MED) (LG)							Olive/pickle fork					
	Bon bon/nut spoon							Olive/relish spoon					
	Bottle opener							Olivewood salad set					
	Bouillon spoon							Parfait spoon					
	Buffet fork							Pea server					
	Buffet spoon							Pie/pastry server					
	Butter knife							Place fork					
	Butter pick							Place knife					
	Butter server (HH) (FH)							Place spoon					
	Butter spreader (HH) (FH)							Poultry shears					
	Cake breaker							Punch ladle					
	Cake/ice cream server							Roast carving set					
	Cake knife							Roast steel					
	Cheese scoop							Salad fork					
	Chocolate spoon							Salad serving set					
	Coffee/demitasse spoon							Sandwich tongs					
	Cold meat fork (MED) (LG)							Sauce ladle					
	Cream soup spoon							Seafood/cocktail fork					
	Cream sauce ladle							Serving spoon					
	Dessert/cereal spoon							Soup ladle					
	Dinner fork							Steak carving set					
	Dinner knife							Steak knife					
	Dressing spoon							Strawberry forks					
	Egg server							Sugar spoons					
	Fish fork							Sugar tongs					
	Fish knife							Tablespoon					
	Fish serving fork							Table/vegetable spoon					
	Fish serving knife							Tartar sauce ladle					
	Flat server/hotcake/tomato							Teaspoon					
	Fruit cocktail/jam spoon							Wedding cake knife					
	Fruit knife							Youth fork					
	Game carving fork							Youth knife					
	Game carving knife							Youth spoon					
	Game shears							Other:					
	Grapefruit spoon							1.					
	Grape shears							2.					
	Gravy ladle							3.					
	Ham slicer							4.					
	Ice cream fork							5.					
	Iced beverage spoon							6.					

Key: # - Number, L - Length, W - Weight (troy oz.), M- Monogram, Each - Price each, Total – Total price

Appendix I: Dinnerware Inventory

Manufacturer: _____ Condition: _____ Material: _____

____Active _____Inactive _____Obsolete

#	Description	Dia.”	H”	Each	Total
	Barrel, biscuit				
	Bell, dinner				
	Bowl, cereal				
	Bowl, cream soup with saucer				
	Bowl, fruit				
	Bowl, punch				
	Bowl, salad, individual				
	Bowl, salad, serving, round				
	Bowl, salad, serving, square				
	Bowl, soup, lug				
	Bowl, soup, rim				
	Butter, covered				
	Cake stand				
	Candlestick				
	Casserole				
	Coffee pot				
	Condiment dish				
	Cornucopia				
	Creamer				
	Demitasse cup & saucer				
	Dish, candy/nut				
	Gravy boat				
	Gravy boat with underplate				
	Jug				
	Mug				
	Napkin ring				
	Plate, bread/butter				
	Plate, cake, square				
	Plate, dinner				
	Plate, dessert				
	Plate, luncheon				
	Plate, salad				
	Platter, oval, medium				
	Platter, oval, large				
	Platter, round, chop				
	Platter, turkey				
	Salt & pepper				
	Server, divided				
	Server, terrace				
	Sugar				
	Teacups & saucers				
	Tray, hors d'oeuvres				
	Tray, sandwich				
	Vase, bud				
	Vegetable, covered (RND) (OVL)				
	Vegetable, open (RND) (OVL)				
	OTHER:				

Key: # - Number, Dia. – Diameter, H – Height, Each - Price each, Total - Total price

Appendix J: Letter of Introduction: General (to Moving Company)

COMPANY LETTERHEAD

[date] **[optional**: Sent via email to ***email address***]

[name of moving company representative]
[moving company]
[street address]
[city, state, zip]

Dear _____:

Thank you for calling. Here is the information you requested about myself and the services I provide.

[Summarize your appraisal-related experience, noting that your Professional Profile is attached as an enclosure.] I was a dealer in antiques for several years prior to 1982 at which time I founded Frederick Appraisal Services…You will find a more complete list of my qualifications in the enclosed Professional Profile.

In addition to my appraisal and estate liquidation services, I welcome problem insurance and moving damage claim assignments. My claims handling services include:

- Professional pre- and post-move inspections and reporting
- Prompt customer contact
- Photo documentation
- Professional appraisals (including loss-of-value determination where necessary)
- Third-party service referrals and coordination
- Coordination of repair efforts
- Settlement option recommendations

My appraisal reports are prepared in conformance with and are subject to the standards and requirements set forth in the nationally-accepted standards of The Appraisal Foundation's *Uniform Standards of Professional Appraisal Practice* (USPAP).

Primarily, I serve the **[e.g., entire central Atlantic state region including Virginia, West Virginia, Delaware, Washington DC, New Jersey, Pennsylvania and Maryland];** however, I'll be happy to help wherever I am needed.

Enclosed is a sample copy of my Contract for Appraisal Services which outlines the terms and conditions of appraisals including my fee schedule. Please call if I can be of assistance. Thank you.

Sincerely,

Appraiser's Signature
[appraiser's typed name]

Enc.

Appendix K: Letter of Introduction: Specific (to Estate Executor)

COMPANY LETTERHEAD

[date] **[optional**: Sent via email to ***email address***]

[name of executor], Ex.
[street address]
[city, state, zip]

Ref: **[Estate of _____, Deceased]**

Dear _____:

Thank you for calling. As we discussed, here is the information regarding myself and the services I provide.

A written appraisal is made by initially conducting an on-site inspection and preparing a hand-written description of the property. Later, the descriptions are finalized, necessary research is conducted and the appropriate values are assigned. Two copies of the appraisal are then prepared - one copy for you with one retained in my secure files for future reference.

[Summarize your appraisal-related experience, noting that your Professional Profile is attached as an enclosure.] I was a dealer in antiques for several years prior to 1982 at which time I founded Frederick Appraisal Services…You will find a more complete list of my qualifications in the enclosed Professional Profile.

While I do not personally appraise jewelry, coins or stamps, I have experts who are colleagues of mine at my disposal to assist me in these areas if needed. Your appraisal will be prepared in conformance with and will be subject to the standards and requirements set forth in The Appraisal Foundation's *Uniform Standards of Professional Appraisal Practice* (USPAP).

Enclosed is a copy of my Contract for Appraisal Services which outlines the terms and conditions of the appraisal. I request that payment for time spent on site be made upon completion of my inspection. I will email you the final statement once the appraisal is completed. I will be able to mail you the completed appraisal upon receipt of the balance due. I look forward to seeing you on **[date/time]**.

Sincerely,

Appraiser's Signature

[appraiser's typed name]

Enc.

Appendix L: Sample Appraisal Transmittal Letter For a Noncash Charitable Contribution

Note that the footnotes used in this Appendix L are for instructional purposes only and are not to be included in the transmittal letter.

COMPANY LETTERHEAD

[date of the report] **[optional**: Sent via email to ***email address***]

[name of client]
[street address]
[city, state, zip]

[Include Subject: or Ref: line if need be.]

Dear _____:

As you requested, this appraisal report has been prepared for your use in claiming an income tax deduction for a noncash charitable contribution.

This transmittal letter contains the appraisal-specific elements of information that are required to be included in this report by the *Uniform Standards of Professional Practice* (USPAP) as promulgated by The Appraisal Foundation of Washington, DC. This report also satisfies the IRS requirements for a "qualified appraisal."

The required item-specific information including the identity and characteristics relevant to value and marketability of the subject property, my opinions of value, and the market data on which my opinions of value were based are contained in the Valuation Section enclosure of this report along with thumbnail images of the subject property. For your convenience, a thumb drive containing high resolution images of the subject property is enclosed with this report.

Executive Summary

On **[date of inspection]** I conducted an appraisal inspection of **[name of property]** located at **[name and address of donee organization]**in the presence of **[responsible party present, e.g., a museum curator]** in order to identify the subject property and its relevant characteristics so that I could properly develop an opinion of its fair market value for your income tax purposes. I understand that the subject property was donated to **[name of donee organization]** on **[date of donation]**.

In summary, the fair market value of the subject property as of its date of donation was **[total FMV]**.

Report Option Used

This appraisal report has been prepared making use of USPAP's Appraisal Report option.

Taxpayer Cost, Date and Manner of Acquisition[586]

You stated that your cost to acquire the item that is the subject of this donation appraisal was **[$X]**, that the date of acquisition was **[date]** and that you acquired the item **[manner of acquisition, e.g.,** from Skinner's Auction Gallery].[587]

Identity of Client and Other Intended Users

This report is intended for use only by you (my client), your agent and by your tax preparer.[588] With the exception of you, your agent and identified intended users listed herein (if any), this appraisal report is not intended to be used by or influence any particular person(s) or class(es) of persons which might take some action in reliance upon it. Unless otherwise stated, I am not aware that you or your agent intend to transmit any information contained in this report to any other person(s) or group(s) other than to the appraiser-identified intended users listed herein. Regardless of who receives a copy of this report, my liability is limited to you and to the identified intended users of this report to the exclusion of all others. Parties other than those specifically listed as authorized intended users of this report who take some action in reliance upon this report do so at their own risk. Note that parties who receive a copy of this report as a consequence of disclosure requirements do not automatically become intended users. Intended users must be identified as such by me at the time of the assignment.

Intended Use of the Appraisal

You stated that you will use this report to establish a basis on which to calculate an income tax deduction for a noncash charitable contribution. Any other use of this appraisal report renders it null and void.

Ownership Interest Being Appraised

The appraised values are based upon 100% of your interest in the property undiminished by any liens, fractional interests or any other form of encumbrance. I understand that you are the sole owner of the property listed in this report; however, mere possession of this appraisal report is not an indication or certificate of title or ownership. Ownership and ownership interest have been represented to me by you (my client) and no inquiry or investigation has been made nor is any opinion to be given as to the accuracy of such representation.

Value Type and Definition

In this appraisal assignment, I developed an opinion of Fair Market Value. Opinions of value are in terms of cash.

The definition of Fair Market Value is set forth in Treasury Regulation §1.170A-1(c)(2) which states that the Fair Market Value is "The price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both

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[586] Include cost, date and manner of acquisition making use of this section only if appraising a work of "art." Otherwise exclude this section. The IRS defines art as *"paintings, sculptures, watercolors, prints, drawings, ceramics, antiques, decorative arts, textiles, carpets, silver, rare manuscripts, historical memorabilia, and other similar objects."*

[587] Alternatively (as and if applicable): "You stated that you received the item being appraised as a gift from **[source]** on **[date of gift]**.", or "You stated that you are unable to provide me with your cost, date and/or manner of acquisition."

[588] The IRS is not normally listed as an intended user even though the IRS might very well automatically get a copy of the appraisal report as an attachment to the taxpayer's tax return. See 2020-2021 USPAP FAQ #135 and the Chapter 1 section entitled *Intended Users* for related discussions.

having reasonable knowledge of relevant facts." Estate Tax Regulation §20.2031-1(b) expands the definition by stating "...nor is the fair market value of an item of property to be determined by the sale price of the item in a market other than that in which such item is most commonly sold to the public, taking into account the location of the item wherever appropriate."

Relevant Dates

Relevant dates associated with this assignment include the following:

- Date of Inspection: The subject property was inspected on **[date of inspection]**.
- Effective Date of Appraisal: Value opinions are effective as of the date of donation which you stated was **[date of donation]**.
- Date of the report: This report was prepared and signed this date, **[date of the report]**.

Scope of Work[589]

Scope of work is defined by USPAP as the work actually performed in order to develop credible assignment results. The scope of work employed in this assignment was determined by me in close consultation with the client. Scope of work was dependent upon the needs of the client, the intended use of the report, the definition of value that I used, the effective date of the report, and the subject property's relevant characteristics.

The scope of work for this assignment included:

- A personal inspection of the subject property was conducted in order to properly determine its identity and relevant characteristics.
- While on site, I documented the relevant information in writing and took digital images of the property.
- Identification research was later conducted as necessary making use of relevant books authored by subject property experts.
- Value research for past sales of comparable properties was conducted at local and national auction galleries including **[auction, auction, auction]** and by searching Internet website databases including **[website, website and website].**
- I analyzed the market data, making adjustments as necessary for differences in value characteristics between the comparable and subject property. Such adjustments, if required, are described in the Valuation Section enclosure of this report.
- I reconciled the data and arrived at my final opinion of value.
- **[Describe here the assistance provided by other appraisers, experts, specialists, consultants, etc., if any.]**

Information Analyzed, Approach to Value

In this assignment, the sales comparison approach to value was employed to determine fair market value. In the sales comparison approach, the most common market in which sales are made to the public is researched to locate comparable items which have sold in the past on which an opinion of value can be based. Adjustments in value are made to reflect differences (if any) in relevant characteristics between the comparable properties and the subject properties. Specific market data which formed the basis for my value conclusions is contained in the Valuation Section enclosure of this report.

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[589] Note that there is no requirement that the scope of work be contained in one section as done here. Work performed that is item-specific in nature would be best placed in the Valuation Section enclosure of the report. Do not use boilerplate: if using a Scope of Work section, ensure that it is properly edited to reflect the work performed in the assignment at hand.

Neither the cost approach to value nor the income approach to value were employed:

- The cost approach to value was not used in this assignment. The cost approach makes use of the cost to replace the subject property with a brand-new property. Since all the appraised items have relevant characteristics of age, provenance and rarity, they cannot be suitably replaced with a brand-new item; therefore, the cost approach to value, while considered, was not developed in this assignment.
- The income approach to value was not used in this assignment. In the income approach, anticipated future income of investment property (i.e., income-generating property) is capitalized in order to calculate its present worth. Since the subject property is not investment property, the income approach to value, while considered, was not developed in this assignment.

Listings/Offers/Prior Sales

There are no known current agreements of sale, validated offers or third-party offers to sell, options, or listings of the subject property as of the effective date of the appraisal. There are no known prior sales of the subject property that have occurred within a reasonable time preceding the effective date of this appraisal.

Use of Property and Opinion of Appropriate Market



On the effective date the subject property was being used for household decorative purposes, and its use as reflected in this report is the same

The definition of fair market value as being used in this assignment mandates the use of the market in which comparable items are most commonly sold at retail to the public, i.e., to the end user, within the market in which such sales most commonly occur. In my opinion, for this assignment the most appropriate market consists of [**for example use whichever class of auctions are applicable**: local, national and international auction houses.][590]

Value Opinions and Conclusions

My final value opinions and conclusions are contained in this transmittal letter's Valuation Section enclosure.

[Explain your rationale for your opinions and conclusions.][591]

Assignment Conditions Encountered[592]

- Limiting Conditions: **[clearly and accurately disclose, if any]**

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[590] When appropriate, use retail galleries if you consider them (as opposed to the auction market) to be the market in which the subject property type is most commonly sold to the public.

[591] For donation appraisals (especially for those valued in excess of $50,000 per item), use the IRS guidance in Appendix BB to describe the basis for your opinion of value (i.e., your reasoning, comparable market data). The guidance states, in part, "*The appraisal of each work should provide the basis or reasoning as to how the appraiser arrived at the individual appraised value. Individual comparable sales should be included. These sales should be analyzed in terms of quality, etc. and discussed as to how they relate to the subject property. The item discussion should include commentary regarding any special conditions or circumstances about the property, and a discussion of the quality or importance of the property in relation to other works of art by the same artist, and of the state of the art market at the time of valuation. Whenever possible, statements should be supported with factual evidence.*"

[592] Note that there is no requirement that any assignment conditions statement be made at all if no assignment condition existed. List only those encountered. If none, you can exclude this section altogether.

- Assumptions: **[clearly and accurately disclose, if any]**
- Extraordinary Assumptions: **[clearly, conspicuously and accurately disclose, if any, and state that their use "might have affected the assignment results."]**
- Hypothetical Conditions: **[clearly, conspicuously and accurately disclose, if any, and state that their use "might have affected the assignment results."]**
- Jurisdictional Exceptions: **[clearly and accurately disclose, if any, but normally there are not]**
- Other: **[disclose any other relevant assignment conditions that affected the scope of work to help ensure that the report is not misleading]**

Disclaimers and Terms of Use

In general, the condition of the property is good. Serious damages and repairs, if any, will be noted in the Valuations Section enclosure of this report. Ordinary wear and tear common to this type of property is not noted.

Unless otherwise noted herein, this appraisal is based only on the readily apparent identity of the items appraised. In my opinion, no further opinion or guarantee of authenticity, genuineness, attribution or authorship is necessary.

If this report is reproduced, copied or otherwise used by those authorized, the report must be used in its entirety which includes this transmittal letter and all enclosures and attachments.

No changes can be made to this report by anyone other than myself. I am not responsible for any unauthorized changes to this report, and any such unauthorized changes immediately render this report null and void.

USPAP Certification

With the below signature I certify that, to the best of my knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have **[no (or the specified)]** present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- I have performed **[no (or the specified)]** services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding the agreement to perform this assignment.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.
- I **[have (or have not)]** made a personal inspection of the property that is the subject of this report.
- No one provided significant personal property appraisal assistance to the person signing this certification. [If there are exceptions, the name of each individual providing

significant personal property appraisal assistance must be stated.]

Statement of Confidentiality

I regard all information concerning this appraisal assignment as confidential. I retain a copy of this document along with my original notes in the assignment workfile, and I will not allow others to have access to these records without your written permission unless so ordered by a court of law.

IRS Declaration

My background, education, experience and membership in professional associations qualify me to make appraisals of the type of property that is the subject of this appraisal. A complete list of my qualifications can be found in my Professional Profile which is attached in the addenda to this report. I understand that this appraisal will be used for income tax purposes.



I understand that my appraisal will be used in connection with a return or claim for refund. I also understand that, if there is a substantial or gross valuation misstatement of the value of the property claimed on the return or claim for refund that is based on my appraisal, I may be subject to a penalty under section 6695A of the Internal Revenue Code, as well as other applicable penalties. I affirm that I have not been at any time in the three-year period ending on the date of the appraisal barred from presenting evidence or testimony before the Department of the Treasury or the Internal Revenue Service pursuant to 31 U.S.C. 330(c).

IRS Form 8283

For noncash charitable contributions in excess of $5,000, IRS Form 8283, Side B, must be completed and attached to the taxpayer's federal income tax return. The form has sections that must be completed and signed not only by the taxpayer, but also by the appraiser and the donee. For your convenience, I have enclosed a copy of Form 8283 on which I've filled in Section B, Part I, columns 5 a, b, and c. I have also completed and signed Section B, Part III as required.

Electronic Transmission of Report [use if applicable]

In addition to a hard copy of this report being mailed to you, this appraisal report has also been transmitted to you electronically (less Enclosures 3 and 4) and includes my signature in electronic form. I affirm that I maintain sole personal control over the use of the electronic signature appended hereto. Electronically affixing my signature to this report carries the same level of authenticity and responsibility for this report's content, analyses and conclusions as would appending an original ink signature on a paper copy of this report.

Sincerely,

Appraiser's Signature
[appraiser's typed name]

Enclosures:
1. Valuation Section
2. Appraiser's Professional Profile
3. Thumb drive containing high resolution images
4. IRS Form 8283
[others as necessary]

Appendix M: Sample Appraisal Transmittal Letter For Acquiring Replacement Value Insurance Coverage for Scheduled Property

an Agreed Value Policy

Note that the footnotes used in this Appendix M are for instructional purposes only and are not to be included in the transmittal letter.

COMPANY LETTERHEAD

[date of the report]

[name of client] **[optional**: Sent via email to ***email address***]
[street address]
[city, state, zip]

[Include Subject: or Ref: line if need be.]

Dear _____:

As you requested, this appraisal report has been prepared for your use in obtaining insurance coverage for your high-value items of personal property.

This transmittal letter contains the appraisal-specific elements of information that are required to be included in this report by the *Uniform Standards of Professional Appraisal Practice* (USPAP) as promulgated by The Appraisal Foundation of Washington, DC.

The required item-specific information including the identity and characteristics relevant to value and marketability of the subject property as well as my opinions of value are contained in the Valuation Section enclosure of this report along with thumbnail images of the subject property. For your convenience, a thumb drive containing high resolution images of the subject property is enclosed with this report. Market data that served as a basis for my opinions of value are retained in the assignment workfile.

Executive Summary

On **[date of inspection]** I conducted an appraisal inspection of your high-value personal property which was located at **[address]** in the presence of **[responsible party present]** in order to identify the subject property and its relevant characteristics so that I could properly develop an opinion of its replacement value.

In summary, the replacement value of all the items appraised and listed within the Valuation Section of this report totals **[$total replacement value]** as of the effective date of the appraisal, which is the date of my inspection.

Report Option Used

This appraisal report has been prepared making use of USPAP's Appraisal Report option.

Identity of Client and Other Intended Users

This report is intended for use only by you (my client) or your agent. With the exception of you, your agent and identified intended users listed herein (if any), this appraisal report is not intended to be used by or influence any particular person(s) or class(es) of persons which might take some action in reliance upon it. Unless otherwise stated, I am not aware that you or your agent intend to transmit any information contained in this report to any other person(s) or group(s) other than to the appraiser-identified intended users listed herein, if any. Regardless of who receives a copy of this report, my liability is limited to you and to the identified intended users of this report to the exclusion of all others. Parties other than those specifically listed as authorized intended users of this report who take some action in reliance upon this report do so at their own risk. Note that parties who receive a copy of this report as a consequence of disclosure requirements do not automatically become intended users. Intended users must be identified as such by me at the time of the assignment.

Intended Use of the Appraisal

As you indicated, the intended use of this appraisal report is to assist in establishing your insurance needs. Any other use of this appraisal renders it null and void.

Ownership Interest Being Appraised

The appraised values are based upon 100% of your interest in the property undiminished by any liens, fractional interests or any other form of encumbrance. I understand that you are the sole owner of the property listed in this report; however, mere possession of this appraisal report is not an indication or certificate of title or ownership. Ownership and ownership interest have been represented to me by you (my client) and no inquiry or investigation has been made nor is any opinion to be given as to the accuracy of such representation.

Value Type and Definition

[Value Type Option A][593]

In this appraisal assignment, I developed an opinion of **replacement value (comparable)**.

Replacement value (comparable) is defined as the worth of an item based on the amount necessary to obtain a **comparable** substitute property that would provide the same enjoyment, usefulness and other rights of ownership as did the insured property. Replacement **value** (comparable) is based on the substitute property's replacement **cost** (comparable).

Replacement cost (comparable) is defined as the total buyer's cost necessary to replace (through purchase) the item being appraised with a comparable item of property of like kind, age, quality, and utility having similar wear and tear, obsolescence, and relevant characteristics as the item being appraised. Replacement cost (comparable) is useful when estimating the replacement value (comparable) of items not capable of being replaced with a new property such as antiques, collectibles, or works of art by a deceased artist. (Source of definition: David Maloney, *Appraising Personal Property: Principles and Methodology*.)

[Value Type Option B][594]

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[593] Use this Value Type Option A section for antiques and other appreciable property when developing an opinion of replacement value (comparable). Use this Option A section in conjunction with other Value Type Options B and C if those other value types are also being used in the assignment.

[594] Use this Value Type Option B section for items of property which can be suitably replaced by **purchasing** a brand-new when developing an opinion of replacement value (new). Use this Option B

In this appraisal assignment, I developed an opinion of **replacement value (new)**.

Replacement value (new) is defined as the worth of an item based on the amount necessary to obtain a **new** substitute property that would provide the same enjoyment, usefulness and other rights of ownership as did the insured property. Replacement **value** (new) is based on the substitute property's replacement **cost** (new).

Replacement cost (new) is defined as the total buyer's cost necessary to replace (through purchase) the item being appraised with a brand-new item of like kind, quality and utility or with a new upgraded item if the original model is out of production. This definition assumes that a suitable new substitute (or the upgraded model) can be found for the property being appraised. Replacement cost (new) applies to property for which exact or suitably-acceptable substitutes can be obtained new. In other words, it is used for items that are still being manufactured and/or are still available new on the open market. Examples include general household contents such as lawn mowers, TVs, and sterling silver flatware, china or crystal in patterns that are still being manufactured. (Source of definition: David Maloney, *Appraising Personal Property: Principles and Methodology*.)

[Value Type Option C][595]

In this appraisal assignment, I developed an opinion of **replacement value (new-reproduction)**.

Replacement value (new-reproduction) is defined as the worth of an item based on the amount necessary to obtain a **new** substitute property that would provide the same enjoyment, usefulness and other rights of ownership as did the insured property. Replacement **value** (new-reproduction) is based on the substitute property's replacement **cost** (new-reproduction).

Replacement cost (new-reproduction) is defined as the total buyer's cost to construct a new, exact replica (or suitable substitute) using the same (or similar) materials and construction techniques as the original by a qualified artist or craftsperson. Replacement cost (new-reproduction) is used for items which cannot be replaced with a ready-made, new item but for which a replacement with a newly-constructed property is possible and acceptable. An example might include the cost for the original artist to reproduce a contemporary family portrait recently destroyed in a fire, or the buyer's cost to replace a wall unit that is to be made by a qualified, yet not the original, cabinetmaker. (Source of definition: David Maloney, *Appraising Personal Property: Principles and Methodology*.)

Relevant Dates

Relevant dates associated with this assignment include the following:

- Date of Inspection: The subject property was inspected on **[date of inspection]**.
- Effective Date of Appraisal: Value opinions are effective as of the date of my inspection, **[date of inspection]**.
- Date of the report: This report was prepared and signed this date, **[date of the report]**.

Scope of Work[596]

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section in conjunction with other Value Type Options A and C if those other value types are also being used in the assignment.

[595] Use this Value Type Option C section for items of property which can be suitably replaced by a **manufactured** brand-new when developing an opinion of replacement value (new). Use this Option C section in conjunction with other Value Type Options A and B if those other value types are also being used in the assignment.

[596] Note that there is no requirement that the scope of work be contained in one section as done here. Work performed that is item-specific in nature would be best placed in the Valuation Section enclosure of the

Scope of work is defined by USPAP as the work actually performed in order to develop credible assignment results. The scope of work employed in this assignment was determined by me in close consultation with the client. Scope of work was dependent upon the needs of the client, the intended use of the report, the definition of value that I used, the effective date of the report, and the subject property's relevant characteristics.

The scope of work for this assignment included:

- A personal inspection of the subject property was conducted in order to properly determine its identity and relevant characteristics.
- While on site, I documented the relevant information in writing and took detailed high-resolution digital images of the property.
- Identification research was later conducted as necessary making use of relevant books authored by subject property experts.
- I conducted market data research at local retail stores and on Internet websites specializing in the sale of high value properties.
- I analyzed the market data, making adjustments as necessary for differences in value characteristics between the comparable and subject property. Such adjustments, if required, are described in the Valuation Section enclosure of this report.
- I reconciled the data and arrived at my final opinion of value.
- **[Describe here the assistance provided by other appraisers, experts, specialists, consultants, etc., if any.]**

Information Analyzed, Approach to Value[597]

[Approach to Value Used Option A][598]

In this assignment, the sales comparison approach to value was employed to determine replacement value (comparable). In the sales comparison approach, the most appropriate market is researched to locate comparable items which have sold in the past or which are currently being offered for sale. Should a comparable suitable replacement not be readily located and available for purchase at retail, local and national auction sales are researched to locate comparable items which have sold in the recent past in order to establish replacement value (comparable). Adjustments in value are made to reflect differences (if any) in relevant characteristics between the comparable properties and the subject properties.

[Approach to Value Used Option B][599]

In this assignment, the cost approach to value was employed to determine replacement value (new). In the cost approach, replacement value (new) is based on the cost to acquire (by purchase) a brand-new suitable replacement property. Replacement cost (new) is then adjusted downwards to reflect all

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report. Do not use boilerplate: if using a Scope of Work section, ensure that it is properly edited to reflect the work performed in the assignment at hand.

[597] In this section identify which approaches to value were developed; and which were not developed and explain why they were not developed.

[598] Use this Approach to Value Used Option A section when developing the sales comparison approach to value, e.g., when appraising antiques or other appreciable property capable of being replaced only with a comparable, not-new property. Use this Option A section with the other relevant Approach to Value Used Options B and C if other approaches to value are also being developed in the assignment.

[599] Use this Approach to Value Used Option B section when developing the cost approach value, e.g., when property capable of being suitably replaced only with a brand-new property. Use this Option B section with the other relevant Approach to Value Used Options A and C if other approaches to value are also being developed in the assignment.

forms of depreciation in the subject property, if any, and if the intended use requires depreciation be considered. In this assignment, it is assumed that since the intended use of this report involves indemnification at full replacement value, depreciation does not apply. Accordingly, the replacement value of the subject property is the replacement cost (new) required to replace the property with no depreciation applied.

[Approach to Value Used Option C][600]

In this assignment, the income approach to value was employed to determine to estimate the investment value of an income-producing property through capitalization of the net income that is expected to be produced by the property during its remaining useful life.

[Approach to Value Excluded Option A][601]

The income approach to value was not used in this assignment. In the income approach, anticipated future income of investment property (i.e., income-generating property) is capitalized in order to calculate its present worth. Since the subject property is not investment property, the income approach to value, while considered, was not applied to this assignment.

[Approach to Value Excluded Option B][602]

The cost approach to value was not used in this assignment. The cost approach makes use of the cost to replace the subject property with a brand-new property. Since all the appraised items have relevant characteristics of age, provenance and rarity, they cannot be suitably replaced with a brand-new item; therefore, the cost approach to value, while considered, was not applied to this assignment.

[Approach to Value Excluded Option C][603]

The sales comparison approach to value was not used in this assignment. All the appraised items can be suitably replaced with a brand-new item. Accordingly, the cost approach to value is best suited for this assignment, so the sales comparison approach, while considered, was not applied to this assignment.

Use of Property and Opinion of Appropriate Market



On the effective date the subject property was being used for household decorative purposes, and its use as reflected in this report is the same

The definition of the type of value being used in this assignment considers a market in which you customarily and conveniently shop and in which you should be able to purchase a replacement

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[600] Use this Approach to Value Used Option C when developing the income approach value, e.g., when projecting an income stream associated with an investment property being appraised. Use this Option C section with the other relevant Approach to Value Used Options A and B if other approaches to value are also being developed in the assignment.
[601] Use this Approach to Value Excluded Option A section to explain why the income approach to value was excluded from the analysis. Use this Option A section in conjunction with other relevant Approach to Value Excluded Options B and C as needed to also explain the exclusion of other approaches to value.
[602] Use this Approach to Value Excluded Option B section to explain why the cost approach to value was excluded from the analysis. Use this Option B section in conjunction with other relevant Approach to Value Excluded Options A and C as needed to also explain the exclusion of other approaches to value.
[603] Use this Approach to Value Excluded Option C section to explain why the sales comparison approach to value was excluded from the analysis. Use this Option C section in conjunction with other relevant Approach to Value Excluded Options A and B as needed to also explain the exclusion of other approaches to value.

property within a reasonable amount of time. Accordingly, I conducted research in local retail antiques stores and on Internet retail websites specializing in the sale of high-value properties comparable to yours.

Value Opinions and Conclusions

My final value opinions and conclusions are contained in this transmittal letter's Valuation Section enclosure.

Assignment Conditions Encountered[604]

- Limiting Conditions: **[clearly and accurately disclose, if any]**
- Assumptions: **[clearly and accurately disclose, if any]**
- Extraordinary Assumptions: **[clearly, conspicuously and accurately disclose, if any, and state that their use "might have affected the assignment results."]**
- Hypothetical Conditions: **[clearly, conspicuously and accurately disclose, if any, and state that their use "might have affected the assignment results."]**
- Jurisdictional Exceptions: **[clearly and accurately disclose, if any, but normally there are not]**
- Other: **[disclose any other relevant assignment conditions that affected the scope of work to help ensure that the report is not misleading]**

Disclaimers and Terms of Use

In general, the condition of the property is good. Serious damages and repairs, if any, will be noted in the Valuations Section enclosure of this report. Ordinary wear and tear common to this type of property is not noted. I have assumed that all mechanical, electrical and electronic devices function properly.

Unless otherwise noted herein, this appraisal is based only on the readily apparent identity of the items appraised. In my opinion, no further opinion or guarantee of authenticity, genuineness, attribution or authorship is necessary.

If this report is reproduced, copied or otherwise used by those authorized, the report must be used in its entirety which includes this transmittal letter and all enclosures and attachments.

No changes can be made to this report by anyone other than myself. I am not responsible for any unauthorized changes to this report, and any such unauthorized changes immediately render this report null and void.

USPAP Certification

With the below signature I certify that, to the best of my knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have **[no (or the specified)]** present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.

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[604] Note that there is no requirement that any assignment conditions statement be made at all if no assignment condition existed. List only those encountered. If none, you can exclude this section altogether.

- I have performed **[no (or the specified)]** services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding the agreement to perform this assignment.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.
- I **[have (or have not)]** made a personal inspection of the property that is the subject of this report.
- No one provided significant personal property appraisal assistance to the person signing this certification. [If there are exceptions, the name of each individual providing significant personal property appraisal assistance must be stated.]

Statement of Confidentiality

I regard all information concerning this appraisal assignment as confidential. I retain a copy of this document along with my original notes in the assignment workfile, and I will not allow others to have access to these records without your written permission unless so ordered by a court of law.

Electronic Transmission of Report [use if applicable]

In addition to a hard copy of this report being mailed to you, this appraisal report has also been transmitted to you electronically (less Enclosure 3) and includes my signature in electronic form. I affirm that I maintain sole personal control over the use of the electronic signature appended hereto. Electronically affixing my signature to this report carries the same level of authenticity and responsibility for this report's content, analyses and conclusions as would appending an original ink signature on a paper copy of this report.

Sincerely,

Appraiser's Signature

[appraiser's typed name]

Enclosures: 1. Valuation Section
2. Appraiser's Professional Profile
3. Thumb drive with high resolution images
[others as necessary]

Appendix N: Sample Appraisal Valuation Section

The Valuation Section includes relevant item-specific information as described in the Chapter 11 section entitled *Appraisal Report Structure.* Included in the Valuation Section are (among other things) the item description including relevant characteristics, value opinions and, if necessary, the comparable market data which form the basis for the value opinion. The below is a simple Valuation Section for an insurance appraisal.[605] Note that the footnotes used in this Appendix N are for instructional purposes only and are not intended to be included in the Valuation Section of the appraisal report.

VALUATION SECTION

Item	Description	Image	Value
1.	• Describe the subject property to the extent necessary given the intended use of the report.[606] Include comparable market date if required to do so such as for donation appraisals. • Include photo here if appropriate, given the intended use of the report. If necessary, enclose a USB flash drive containing high resolution images as well. • For tax-liability appraisals such as a donation or estate, to help ensure that this is a "Qualified Appraisal" as defined by the IRS, include descriptive information as required by IRS Pub 561 *Determining the Value of Donated Property* which can be found here: IRS.gov/pub/irs-pdf/p561.pdf. • For tax-liability appraisals, for objects valued in excess of $50K, use the IRS guidance "Preferred Object Identification Format for Art Valued Over $50,000" which can be found here: IRS.gov/pub/irs-utl/appraisal_item_format.pdf as well as in Appendix BB of this book.		
2.	Mahogany William & Mary period, gate-leg, drop leaf side table, c. 1690 with turned stretcher base with good wear, single hand dovetailed end drawer; the top slightly loose; the top's center section replaced during 19th century; the base strengthened with screws; h-27", dia-31".		$2,500
3.	Late 19th century mahogany side chair with leather upholstered back rest and seat cushion; one stretcher missing; labeled "House of Representatives"; from the U.S. Capitol Building.		$350
End		**Total value:**	**$5,750**

[605] If doing a donation appraisal, include information relating to object identification and comparable market data as well as your reasoning in accordance with the IRS guidance in Appendix BB *Guidance for Donation Appraisals of Art Valued Over $50,000—Object Identification.* Note that while the format described in Appendix BB pertains to the description of donated items valued in excess of $50K, in the author's opinion you should use its suggested format regardless of the fair market value of the item being donated.

[606] Refer to Chapter 10 *Describing Property* for a discussion regarding how to describe property.

Appendix O: IRS Form 8283
Noncash Charitable Contributions Section A

Form **8283**
(Rev. December 2014)
Department of the Treasury
Internal Revenue Service

Noncash Charitable Contributions

► Attach to your tax return if you claimed a total deduction of over $500 for all contributed property.

► Information about Form 8283 and its separate instructions is at *www.irs.gov/form8283*.

OMB No. 1545-0908

Attachment Sequence No. **155**

Name(s) shown on your income tax return

Identifying number

Note. Figure the amount of your contribution deduction before completing this form. See your tax return instructions.

Section A. Donated Property of $5,000 or Less and Publicly Traded Securities—List in this section **only** items (or groups of similar items) for which you claimed a deduction of $5,000 or less. Also list publicly traded securities even if the deduction is more than $5,000 (see instructions).

Part I **Information on Donated Property—**If you need more space, attach a statement.

1	(a) Name and address of the donee organization	(b) If donated property is a vehicle (see instructions), check the box. Also enter the vehicle identification number (unless Form 1098-C is attached).	(c) Description of donated property (For a vehicle, enter the year, make, model, and mileage. For securities, enter the company name and the number of shares.)
A		☐	
B		☐	
C		☐	
D		☐	
E		☐	

Note. If the amount you claimed as a deduction for an item is $500 or less, you do not have to complete columns (e), (f), and (g).

	(d) Date of the contribution	(e) Date acquired by donor (mo., yr.)	(f) How acquired by donor	(g) Donor's cost or adjusted basis	(h) Fair market value (see instructions)	(i) Method used to determine the fair market value
A						
B						
C						
D						
E						

Part II **Partial Interests and Restricted Use Property—**Complete lines 2a through 2e if you gave less than an entire interest in a property listed in Part I. Complete lines 3a through 3c if conditions were placed on a contribution listed in Part I; also attach the required statement (see instructions).

2a Enter the letter from Part I that identifies the property for which you gave less than an entire interest ► _____
If Part II applies to more than one property, attach a separate statement.

b Total amount claimed as a deduction for the property listed in Part I: **(1)** For this tax year ► _____
(2) For any prior tax years ► _____

c Name and address of each organization to which any such contribution was made in a prior year (complete only if different from the donee organization above):
Name of charitable organization (donee)

Address (number, street, and room or suite no.)

City or town, state, and ZIP code

d For tangible property, enter the place where the property is located or kept ► _____

e Name of any person, other than the donee organization, having actual possession of the property ► _____

		Yes	No
3a	Is there a restriction, either temporary or permanent, on the donee's right to use or dispose of the donated property?		
b	Did you give to anyone (other than the donee organization or another organization participating with the donee organization in cooperative fundraising) the right to the income from the donated 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?		
c	Is there a restriction limiting the donated property for a particular use?		

Appendix O: IRS Form 8283
Noncash Charitable Contributions Section B

Form 8283 (Rev. 12-2014) Page **2**

Name(s) shown on your income tax return | **Identifying number**

Section B. Donated Property Over $5,000 (Except Publicly Traded Securities)—Complete this section for one item (or one group of similar items) for which you claimed a deduction of more than $5,000 per item or group (except contributions of publicly traded securities reported in Section A). Provide a separate form for each property donated unless it is part of a group of similar items. An appraisal is generally required for property listed in Section B. See instructions.

Part I Information on Donated Property—To be completed by the taxpayer and/or the appraiser.

4 Check the box that describes the type of property donated:

- **a** ☐ Art* (contribution of $20,000 or more)
- **b** ☐ Qualified Conservation Contribution
- **c** ☐ Equipment
- **d** ☐ Art* (contribution of less than $20,000)
- **e** ☐ Other Real Estate
- **f** ☐ Securities
- **g** ☐ Collectibles**
- **h** ☐ Intellectual Property
- **i** ☐ Vehicles
- **j** ☐ Other

*Art includes paintings, sculptures, watercolors, prints, drawings, ceramics, antiques, decorative arts, textiles, carpets, silver, rare manuscripts, historical memorabilia, and other similar objects.

**Collectibles include coins, stamps, books, gems, jewelry, sports memorabilia, dolls, etc., but not art as defined above.

Note. In certain cases, you must attach a qualified appraisal of the property. See instructions.

5	**(a)** Description of donated property (if you need more space, attach a separate statement)	**(b)** If tangible property was donated, give a brief summary of the overall physical condition of the property at the time of the gift	**(c)** Appraised fair market value
A			
B			
C			
D			

	(d) Date acquired by donor (mo., yr.)	**(e)** How acquired by donor	**(f)** Donor's cost or adjusted basis	**(g)** For bargain sales, enter amount received	**See instructions** **(h)** Amount claimed as a deduction	**See instructions** **(i)** Date of contribution
A						
B						
C						
D						

Part II Taxpayer (Donor) Statement—List each item included in Part I above that the appraisal identifies as having a value of $500 or less. See instructions.

I declare that the following item(s) included in Part I above has to the best of my knowledge and belief an appraised value of not more than $500 (per item). Enter identifying letter from Part I and describe the specific item. See instructions. ► _____

Signature of taxpayer (donor) ► Date ►

Part III Declaration of Appraiser

I declare that I am not the donor, the donee, a party to the transaction in which the donor acquired the property, employed by, or related to any of the foregoing persons, or married to any person who is related to any of the foregoing persons. And, if regularly used by the donor, donee, or party to the transaction, I performed the majority of my appraisals during my tax year for other persons.

Also, I declare that I perform appraisals on a regular basis; and that because of my qualifications as described in the appraisal, I am qualified to make appraisals of the type of property being valued. I certify that the appraisal fees were not based on a percentage of the appraised property value. Furthermore, I understand that a false or fraudulent overstatement of the property value as described in the qualified appraisal or this Form 8283 may subject me to the penalty under section 6701(a) (aiding and abetting the understatement of tax liability). In addition, I understand that I may be subject to a penalty under section 6695A if I know, or reasonably should know, that my appraisal is to be used in connection with a return or claim for refund and a substantial or gross valuation misstatement results from my appraisal. I affirm that I have not been barred from presenting evidence or testimony by the Office of Professional Responsibility.

Sign Here Signature ► Title ► Date ►

Business address (including room or suite no.) | **Identifying number**

City or town, state, and ZIP code

Part IV Donee Acknowledgment—To be completed by the charitable organization.

This charitable organization acknowledges that it is a qualified organization under section 170(c) and that it received the donated property as described in Section B, Part I, above on the following date ► _____

Furthermore, this organization affirms that in the event it sells, exchanges, or otherwise disposes of the property described in Section B, Part I (or any portion thereof) within 3 years after the date of receipt, it will file **Form 8282,** Donee Information Return, with the IRS and give the donor a copy of that form. This acknowledgment does not represent agreement with the claimed fair market value.

Does the organization intend to use the property for an unrelated use? . . . . . ► ☐ Yes ☐ No

Name of charitable organization (donee) | **Employer identification number**

Address (number, street, and room or suite no.) | City or town, state, and ZIP code

Authorized signature | Title | Date

Form **8283** (Rev. 12-2014)

Appendix P: IRS Form 706 (Schedule F)
United States Estate Tax Return

Form 706 (Rev. 8-2013)

Estate of: | **Decedent's social security number**

SCHEDULE F—Other Miscellaneous Property Not Reportable Under Any Other Schedule

(For jointly owned property that must be disclosed on Schedule E, see instructions.)
(If you elect section 2032A valuation, you must complete Schedule F and Schedule A-1.)

Note. If the value of the gross estate, together with the amount of adjusted taxable gifts, is less than the basic exclusion amount and the Form 706 is being filed solely to elect portability of the DSUE amount, consideration should be given as to whether you are required to report the value of assets eligible for the marital or charitable deduction on this schedule. See the instructions and Reg. section 20.2010-2T (a)(7)(ii) for more information. If you are not required to report the value of an asset, identify the property but make no entries in the last three columns.

		Yes	No
1	Did the decedent own any works of art, items, or any collections whose artistic or collectible value at date of death exceeded $3,000? . . . . . If "Yes," submit full details on this schedule and attach appraisals.		
2	Has the decedent's estate, spouse, or any other person received (or will receive) any bonus or award as a result of the decedent's employment or death? . . . . . If "Yes," submit full details on this schedule.		
3	Did the decedent at the time of death have, or have access to, a safe deposit box? . . . . . If "Yes," state location, and if held jointly by decedent and another, state name and relationship of joint depositor. If any of the contents of the safe deposit box are omitted from the schedules in this return, explain fully why omitted.		

Item number	Description. For securities, give CUSIP number. If trust, partnership, or closely held entity, give EIN	CUSIP number or EIN, where applicable	Alternate valuation date	Alternate value	Value at date of death
1					
	Total from continuation schedules (or additional statements) attached to this schedule . .				
	TOTAL. (Also enter on Part 5—Recapitulation, page 3, at item 6.)				

(If more space is needed, attach the continuation schedule from the end of this package or additional statements of the same size.)

See Schedule F (the Instructions for this IRS Form 706 Schedule F) on the following page. Note that it states that an appraisal is required only if "…any item or collection of similar items is valued at more than $3,000..."

Schedule F—Other Miscellaneous Property

If any assets to which the special rule of Regulations section 20.2010-2T(a)(7)(ii) applies are reported on this schedule, do not enter any value in the last three columns. See instructions for line 10 of Part 5–Recapitulation for information on how to estimate and report the value of these assets.

You must complete Schedule F and file it with the return.

On Schedule F, list all items that must be included in the gross estate that are not reported on any other schedule, including:

- Debts due the decedent (other than notes and mortgages included on Schedule C);
- Interests in business;
- Any interest in an Archer medical savings account (MSA) or health savings account (HSA), unless such interest passes to the surviving spouse; and
- Insurance on the life of another (obtain and attach Form 712, for each policy).

Note (for single premium or paid-up policies). In certain situations (for example, where the surrender value of the policy exceeds its replacement cost), the true economic value of the policy will be greater than the amount shown on line 59 of Form 712. In these situations, report the full economic value of the policy on Schedule F. See Rev. Rul. 78-137, 1978-1 C.B. 280 for details.

- Section 2044 property (see *Decedent Who Was a Surviving Spouse*, later);
- Claims (including the value of the decedent s interest in a claim for refund of income taxes or the amount of the refund actually received);
- Rights;
- Royalties;
- Leaseholds;
- Judgments;
- Reversionary or remainder interests;
- Shares in trust funds (attach a copy of the trust instrument);
- Household goods and personal effects, including wearing apparel;
- Farm products and growing crops;
- Livestock;
- Farm machinery; and
- Automobiles.

Interests. If the decedent owned any interest in a partnership or unincorporated business, attach a statement of assets and liabilities for the valuation date and for the 5 years before the valuation date. Also, attach statements of the net earnings for the same 5 years. Be sure to include the EIN of the entity. You must account for goodwill in the valuation. In general, furnish the same information and follow the methods used to value close corporations. See the instructions for Schedule B.

All partnership interests should be reported on Schedule F unless the partnership interest, itself, is jointly-owned. Jointly-owned partnership interests should be reported on Schedule E.

If real estate is owned by a sole proprietorship, it should be reported on Schedule F and not on Schedule A. Describe the real estate with the same detail required for Schedule A.

Valuation discounts. If you answered "Yes," to Part 4—General Information, line 11b for any interest in a partnership, an unincorporated business, a limited liability company, or stock in a closely-held corporation, attach a statement that lists the item number from Schedule F and identifies the total effective discount taken (that is, XX.XX%) on such interest.

Example of effective discount:

a	Pro-rata value of limited liability company (before any discounts)	$100.00
b	Minus: 10% discounts for lack of control	(10.00)
c	Marketable minority interest value (as if freely traded minority interest value)	$90.00
d	Minus: 15% discount for lack of marketability	(13.50)
e	Non-marketable minority interest value	$76.50

Calculation of effective discount:

(**a** minus **e**) divided by **a** = effective discount
($100.00 - $76.50) ÷ $100.00 = 23.50%

Note. The amount of discounts are based on the factors pertaining to a specific interest and those discounts shown in the example are for demonstration purposes only.

If you answered "Yes," to line 11b for any transfer(s) described in (1) through (5) in the Schedule G instructions (and made by the decedent), **attach a statement to Schedule G** which lists the item number from that schedule and identifies the total effective discount taken (that is, XX.XX%) on such transfer(s).

Line 1. If the decedent owned at the date of death works of art or items with collectible value (for example, jewelry, furs, silverware, books, statuary, vases, oriental rugs, coin or stamp collections), check the "Yes," box on line 1 and provide full details. If any item or collection of similar items is valued at more than $3,000, attach an appraisal by an expert under oath and the required statement regarding the appraiser's qualifications (see Regulations section 20.2031-6(b)).

Appendix Q: Tax Regulation §20.2031 and other Federal Estate Tax Issues

Estate Tax Regulation §20.2031 provides that the value of the gross estate of a decedent is determined by including the value at the time of death of all property wherever situated.

Estate Tax Regulation §20.2031-1(b) provides that the value of property includible in a decedent's gross estate is its fair market value at the time of the decedent's death.

Valuation of property in general. The value of every item of property includible in a decedent's gross estate under sections 20.2031 through 20.2044 is its fair market value at the time of the decedent's death, except that if the executor elects the alternate valuation method under section 20.2032-1(a), it is the fair market value thereof at the date and with the adjustments, prescribed in that section.

The fair market value is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts. The fair market value of a particular item of property includible in the decedent's gross estate is not to be determined by a forced sale price. Nor is the fair market value of an item of property to be determined by the sale price of the item in a market other than that in which such item is most commonly sold to the public, taking into account the location of the item wherever appropriate.

Thus, in the case of an item of property includible in the decedent's gross estate, which is generally obtained by the public in the retail market, the fair market value of such an item of property is the price at which the item or a comparable item would be **sold at retail**.

For example, the fair market value of an automobile (an article generally obtained by the public in the retail market) includible in the decedent's gross estate is the price for which an automobile of the same or approximately the same description, make, model, age, condition, etc. could be purchased by a member of the general public and not the price for which the particular automobile of the decedent would be purchased by a dealer in used automobiles.

Estate Tax Regulation §20.2032-1(a) provides that the executor may elect to determine the value of all the property included in the gross estate as of six months after the decedent's death. However, property distributed, sold, exchanged, or otherwise disposed of within six months after death must be valued as of the date of distribution, sale exchange, or other disposition. It is the purpose of this section to permit a reduction in the amount of tax that would be otherwise payable if the gross estate has suffered a shrinkage in its aggregate value in the six months following the decedent's death. The alternate valuation method is not automatic but must be elected within 9 months of the date of death.

Estate Tax Regulation §20.2031-6 Valuation of household and personal effects

1. *General rule*. The fair market value of the decedent's household and personal effects is the price which a willing buyer would pay to a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts. **A room by room itemization** of household and personal effects is desirable**. All the articles should be named specifically, except that a number of articles contained in the same room, none of which has a value in excess of $100, may be grouped.** A

separate value should be given for each article named. In lieu of an itemized list, the executor may furnish a written statement, containing a declaration that it is made under penalties of perjury, setting forth the aggregate value as appraised by a competent appraiser or appraisers of recognized standing and ability, or by a dealer or dealers in the class of personalty involved.

2. *Special rule in cases involving a substantial number of valuable articles*. Notwithstanding the provisions of paragraph (1) of this section, if there are included among the household and personal effects articles having marked artistic or intrinsic value of a total value in excess of $3,000 (e.g., jewelry, furs, silverware, paintings, etchings, engravings, antiques, books, statuary, vases, oriental rugs, coin or stamp collections), the appraisal of an expert or experts, under oath, shall be filed with the return. The appraisal shall be accompanied by a written statement of the executor containing a declaration that it is made under the penalties of perjury as to the completeness of the itemized list of such property and as to the disinterested character and the qualifications of the appraiser or appraisers.

3. *Disposition of household effects prior to investigation.* If it is desired to effect distribution or sale of any portion of the household or personal effects of the decedent in advance of an investigation by an officer of the Internal Revenue Service, information to that effect shall be given to the district director. The statement to the district director shall be accompanied by an appraisal of such property, under oath, and by a written statement of the executor, containing a declaration that it is made under the penalties of perjury, regarding the completeness of the list of such property and the qualifications of the appraiser, as heretofore described. If a personal inspection by the officer of the Internal Revenue Service is not deemed necessary, the executor will be so advised. This procedure is designed to facilitate disposition of such property and to obviate future expense and inconvenience to the estate by affording the district director an opportunity to make an investigation should one be deemed necessary prior to sale or distribution.

4. *Additional rules if an appraisal is involved*. If, pursuant to paragraphs (a), (b), and (c) of this section, expert appraisers are employed, care should be taken to see that they are reputable and of recognized competency to appraise the particular class of property involved. In the appraisal, books in sets by standard authors should be listed in separate groups. In listing paintings having artistic value, the size, subject, and artist's name should be stated. In the case of oriental rugs, the size, make and general condition should be given. Sets of silverware should be listed in separate groups. Groups or individual pieces of silverware should be weighted and the weights given in troy ounces. In arriving at the value of silverware, the appraisers should take into consideration its antiquity, utility, desirability, condition, and obsolescence.

Estate Tax Regulation §20.2031-6d Additional rules if an appraisal involved…In the appraisal, books in sets by standard authors should be listed in separate groups. In listing paintings having artistic value, the size, subject, and artist's name should be stated. In the case of oriental rugs, the size, make, and general condition should be given. Sets of silverware should be listed in separate groups. Groups or individual pieces of silverware should be weighed and the weights given in troy ounces. In arriving at the value of silverware, the appraisers should take into consideration its antiquity, utility, desirability, condition, and obsolescence.



Appendix R: Treasury Regulation §1.170A-17(a)
Definition of Qualified Appraisal

§ 1.170A-17(a)(1) *Definition.* For purposes of section 170(f)(11) and § 1.170A-16(d)(1)(ii) and (e)(1)(ii), the term *qualified appraisal* means an appraisal document that is prepared by a qualified appraiser (as defined in paragraph (b)(1) of this section) in accordance with generally accepted appraisal standards (as defined in paragraph (a)(2) of this section) and otherwise complies with the requirements of this paragraph (a).

(2) *Generally accepted appraisal standards defined.* For purposes of paragraph (a)(1) of this section, *generally accepted appraisal standards* means the substance and principles of the Uniform Standards of Professional Appraisal Practice, as developed by the Appraisal Standards Board of the Appraisal Foundation.

(3) *Contents of qualified appraisal.* A qualified appraisal must include -

(i) The following information about the contributed property:

(A) A description in sufficient detail under the circumstances, taking into account the value of the property, for a person who is not generally familiar with the type of property to ascertain that the appraised property is the contributed property.

(B) In the case of real property or tangible personal property, the condition of the property.

(C) The valuation effective date, as defined in paragraph (a)(5)(i) of this section.

(D) The fair market value, within the meaning of § 1.170A-1(c)(2), of the contributed property on the valuation effective date;

(ii) The terms of any agreement or understanding by or on behalf of the donor and donee that relates to the use, sale, or other disposition of the contributed property, including, for example, the terms of any agreement or understanding that -

(A) Restricts temporarily or permanently a donee's right to use or dispose of the contributed property;

(B) Reserves to, or confers upon, anyone, other than a donee or an organization participating with a donee in cooperative fundraising, any right to the income from the contributed property or to the possession of the property, including the right to vote contributed securities, to acquire the property by purchase or otherwise, or to designate the person having income, possession, or right to acquire; or

(C) Earmarks contributed property for a particular use;

(iii) The date, or expected date, of the contribution to the donee;

(iv) The following information about the appraiser:

(A) Name, address, and taxpayer identification number.

(B) Qualifications to value the type of property being valued, including the appraiser's education and experience.

(C) If the appraiser is acting in his or her capacity as a partner in a partnership, an employee of any person, whether an individual, corporation, or partnership, or an independent contractor engaged by a person other than the donor, the name, address, and taxpayer identification number of the partnership or the person who employs or engages the qualified appraiser;

(v) The signature of the appraiser and the date signed by the appraiser (appraisal report date);

(vi) The following declaration by the appraiser: "I understand that my appraisal will be used in connection with a return or claim for refund. I also understand that, if there is a substantial or gross valuation misstatement of the value of the property claimed on the return or claim for refund that is based on my appraisal, I may be subject to a penalty under section 6695A of the Internal Revenue Code, as well as other applicable penalties. I affirm that I have not been at any time in the three-year period ending on the date of the appraisal barred from presenting evidence or testimony before the Department of the Treasury or the Internal Revenue Service pursuant to 31 U.S.C. 330(c)";

(vii) A statement that the appraisal was prepared for income tax purposes;

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

(ix) 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.

(4) *Timely appraisal report.* A qualified appraisal must be signed and dated by the qualified appraiser no earlier than 60 days before the date of the contribution and no later than -

(i) The due date, including extensions, of the return on which the deduction for the contribution is first claimed;

(ii) In the case of a donor that is a partnership or S corporation, the due date, including extensions, of the return on which the deduction for the contribution is first reported; or

(iii) In the case of a deduction first claimed on an amended return, the date on which the amended return is filed.

(5) *Valuation effective date*

(i) *Definition.* The *valuation effective date* is the date to which the value opinion applies.

(ii) *Timely valuation effective date.* For an appraisal report dated before the date of the contribution, as described in § 1.170A-1(b), the valuation effective date must be no earlier than 60 days before the date of the contribution and no later than the date of the contribution. For an appraisal report dated on or after the date of the contribution, the valuation effective date must be the date of the contribution.

(6) *Exclusion for donor knowledge of falsity.* An appraisal is not a qualified appraisal for a particular contribution, even if the requirements of this paragraph (a) are met, if the donor either failed to disclose or misrepresented facts, and a reasonable person would expect that this failure or misrepresentation would cause the appraiser to misstate the value of the contributed property.

(7) *Number of appraisals required.* A donor must obtain a separate qualified appraisal for each item of property for which an appraisal is required under section 170(f)(11)(C) and (D) and paragraph (d) or (e) of § 1.170A-16 and that is not included in a group of similar items of property, as defined in § 1.170A-13(c)(7)(iii). For rules regarding the number of appraisals required if similar items of property are contributed, see section 170(f)(11)(F) and § 1.170A-13(c)(3)(iv)(A).

(8) *Time of receipt of qualified appraisal.* The qualified appraisal must be received by the donor before the due date, including extensions, of the return on which a deduction is first claimed, or reported in the case of a donor that is a partnership or S corporation, under section 170 with respect to the donated property, or, in the case of a deduction first claimed, or reported, on an amended return, the date on which the return is filed.

(9) *Prohibited appraisal fees.* The fee for a qualified appraisal cannot be based to any extent on the appraised value of the property. For example, a fee for an appraisal will be treated as based on the appraised value of the property if any part of the fee depends on the amount of the appraised value that is allowed by the Internal Revenue Service after an examination.

(10) *Retention of qualified appraisal.* The donor must retain the qualified appraisal for so long as it may be relevant in the administration of any internal revenue law.

(11) *Effect of appraisal disregarded pursuant to 31 U.S.C. 330(c).* If an appraiser has been prohibited from practicing before the Internal Revenue Service by the Secretary under 31 U.S.C. 330(c) at any time during the three-year period ending on the date the appraisal is signed by the appraiser, any appraisal prepared by the appraiser will be disregarded as to value, but could constitute a qualified appraisal if the requirements of this section are otherwise satisfied, and the donor had no knowledge that the signature, date, or declaration was false when the appraisal and Form 8283 (Section B) were signed by the appraiser.

(12) *Partial interest.* If the contributed property is a partial interest, the appraisal must be of the partial interest.

[T.D. 9836, 83 FR 36425, July 30, 2018]

Source: https://www.govregs.com/regulations/expand/title26_chapterI_part1_subjgrp2_section1.170A-17#title26_chapterI_part1_subjgrp2_section1.170A-1

Appendix S: Treasury Regulation §1.170A-17(b)
Definition of Qualified Appraiser

§ 1.170A-17(b)(1) *Definition.* For purposes of section 170(f)(11) and § 1.170A-16(d)(1)(ii) and (e)(1)(ii), the term *qualified appraiser* means an individual with verifiable education and experience in valuing the type of property for which the appraisal is performed, as described in paragraphs (b)(2) through (4) of this section.

(2) *Education and experience in valuing the type of property* - (i) *In general.* An individual is treated as having education and experience in valuing the type of property within the meaning of paragraph (b)(1) of this section if, as of the date the individual signs the appraisal, the individual has -

(A) Successfully completed (for example, received a passing grade on a final examination) professional or college-level coursework, as described in paragraph (b)(2)(ii) of this section, in valuing the type of property, as described in paragraph (b)(3) of this section, and has two or more years of experience in valuing the type of property, as described in paragraph (b)(3) of this section; or

(B) Earned a recognized appraiser designation, as described in paragraph (b)(2)(iii) of this section, for the type of property, as described in paragraph (b)(3) of this section.

(ii) *Coursework must be obtained from an educational organization, generally recognized professional trade or appraiser organization, or employer educational program.* For purposes of paragraph (b)(2)(i)(A) of this section, the coursework must be obtained from -

(A) A professional or college-level educational organization described in section 170(b)(1)(A)(ii);

(B) A generally recognized professional trade or appraiser organization that regularly offers educational programs in valuing the type of property; or

(C) An employer as part of an employee apprenticeship or educational program substantially similar to the educational programs described in paragraphs (b)(2)(ii)(A) and (B) of this section.

(iii) *Recognized appraiser designation defined.* A *recognized appraiser designation* means a designation awarded by a generally recognized professional appraiser organization on the basis of demonstrated competency.

(3) *Type of property defined* - (i) *In general.* The type of property means the category of property customary in the appraisal field for an appraiser to value.

(ii) *Examples.* The following examples illustrate the rule of paragraphs (b)(2)(i) and (b)(3)(i) of this section:

Example (1). *Coursework in valuing type of property.* There are very few professional-level courses offered in widget appraising, and it is customary in the appraisal field for personal property appraisers to appraise widgets. Appraiser *A* has successfully completed professional-level coursework in valuing personal property generally but has completed no coursework in valuing widgets. The coursework completed by Appraiser *A* is for the type of property under paragraphs (b)(2)(i) and (b)(3)(i) of this section. Example (2). *Experience in valuing type of property.* It is customary for professional antique appraisers to appraise antique widgets. Appraiser *B* has 2 years of experience in valuing antiques generally and is asked to appraise an antique widget. Appraiser *B* has obtained experience in valuing the type of property under paragraphs (b)(2)(i) and (b)(3)(i) of this section. Example (3). *No experience in valuing type of*

property. It is not customary for professional antique appraisers to appraise new widgets. Appraiser *C* has experience in appraising antiques generally but no experience in appraising new widgets. Appraiser *C* is asked to appraise a new widget. Appraiser *C* does not have experience in valuing the type of property under paragraphs (b)(2)(i) and (b)(3)(i) of this section.

(4) *Verifiable.* For purposes of paragraph (b)(1) of this section, education and experience in valuing the type of property are verifiable if the appraiser specifies in the appraisal the appraiser's education and experience in valuing the type of property, as described in paragraphs (b)(2) and (3) of this section, and the appraiser makes a declaration in the appraisal that, because of the appraiser's education and experience, the appraiser is qualified to make appraisals of the type of property being valued.

(5) *Individuals who are not qualified appraisers.* The following individuals are not qualified appraisers for the appraised property:

(i) An individual who receives a fee prohibited by paragraph (a)(9) of this section for the appraisal of the appraised property.

(ii) The donor of the property.

(iii) A party to the transaction in which the donor acquired the property (for example, the individual who sold, exchanged, or gave the property to the donor, or any individual who acted as an agent for the transferor or for the donor for the sale, exchange, or gift), unless the property is contributed within 2 months of the date of acquisition and its appraised value does not exceed its acquisition price.

(iv) The donee of the property.

(v) Any individual who is either -

(A) Related, within the meaning of section 267(b), to, or an employee of, an individual described in paragraph (b)(5)(ii), (iii), or (iv) of this section;

(B) Married to an individual described in paragraph (b)(5)(v)(A) of this section; or

(C) An independent contractor who is regularly used as an appraiser by any of the individuals described in paragraph (b)(5)(ii), (iii), or (iv) of this section, and who does not perform a majority of his or her appraisals for others during the taxable year.

(vi) An individual who is prohibited from practicing before the Internal Revenue Service by the Secretary under 31 U.S.C. 330(c) at any time during the three-year period ending on the date the appraisal is signed by the individual.

(c) *Effective/applicability date.* This section applies to contributions made on or after January 1, 2019. Taxpayers may rely on the rules of this section for appraisals prepared for returns or submissions filed after August 17, 2006.

[T.D. 9836, 83 FR 36425, July 30, 2018]

Source: https://www.govregs.com/regulations/expand/title26_chapterI_part1_subjgrp2_section1.170A-17#title26_chapterI_part1_subjgrp2_section1.170A-1



Appendix T: Treasury Regulation §1.170A-13(c)(4)

Appraisal Summary

1.170A-13(c)(4)(i) *In general.* For purposes of this paragraph (c), except as provided in paragraph (c)(4)(iv)(A) of this section, the term *appraisal summary* means a summary of a qualified appraisal that -

(A) Is made on the form prescribed by the Internal Revenue Service;

(B) Is signed and dated (as described in paragraph (c)(4)(iii) of this section) by the donee (or presented to the donee for signature in cases described in paragraph (c)(4)(iv)(C)(*2*) of this section);

(C) Is signed and dated by the qualified appraiser (within the meaning of paragraph (c)(5) of this section) who prepared the qualified appraisal (within the meaning of paragraph (c)(3) of this section); and

(D) Includes the information required by paragraph (c)(4)(ii) of this section.

(ii) *Information included in an appraisal summary.* An appraisal summary shall include the following information:

(A) The name and taxpayer identification number of the donor (social security number if the donor is an individual or employer identification number if the donor is a partnership or corporation);

(B) 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 contributed;

(C) In the case of tangible property, a brief summary of the overall physical condition of the property at the time of the contribution;

(D) The manner of acquisition (*e.g.,* purchase, exchange, gift, or bequest) and the date of acquisition of the property by the donor, or, if the property was created, produced, or manufactured by or for the donor, a statement to that effect and the approximate date the property was substantially completed;

(E) The cost or other basis of the property adjusted as provided by section 1016;

(F) The name, address, and taxpayer identification number of the donee;

(G) The date the donee received the property;

(H) For charitable contributions made after June 6, 1988, a statement explaining whether or not the charitable contribution was made by means of a bargain sale and the amount of any consideration received from the donee for the contribution;

(I) 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 who signs the appraisal summary and of other persons as required by paragraph (c)(3)(ii)(E) of this section;

(J) The appraised fair market value of the property on the date of contribution;

(K) The declaration by the appraiser described in paragraph (c)(5)(i) of this section;

(L) A declaration by the appraiser stating that -

(*1*) The fee charged for the appraisal is not of a type prohibited by paragraph (c)(6) of this section; and
(*2*) Appraisals prepared by the appraiser are not being disregarded pursuant to 31 U.S.C. 330(c) on the date the appraisal summary is signed by the appraiser; and

(M) Such other information as may be specified by the form.

(iii) *Signature of the original donee.* The person who signs the appraisal summary for the donee shall be an official authorized to sign the tax or information returns of the donee, or a person specifically authorized to sign appraisal summaries by an official authorized to sign the tax or information returns of such done. In the case of a donee that is a governmental unit, the person who signs the appraisal summary for such donee shall be the official authorized by such donee to sign appraisal summaries. The signature of the donee on the appraisal summary does not represent concurrence in the appraised value of the contributed property. Rather, it represents acknowledgment of receipt of the property described in the appraisal summary on the date specified in the appraisal summary and that the donee understands the information reporting requirements imposed by section 6050L and § 1.6050L-1. In general, § 1.6050L-1 requires the donee to file an information return with the Internal Revenue Service in the event the donee sells, exchanges, consumes, or otherwise disposes of the property (or any portion thereof) described in the appraisal summary within 2 years after the date of the donor's contribution of such property.

(iv) *Special rules*

(A) *Content of appraisal summary required in certain cases.* With respect to contributions of nonpublicly traded stock described in paragraph (c)(2)(ii)(B)(*1*) of this section, contributions of securities described in paragraph (c)(7)(xi)(B) of this section, and contributions by C corporations described in paragraph (c)(2)(ii)(B)(*3*) of this section, the term *appraisal summary* means a document that -

(*1*) Complies with the requirements of paragraph (c)(4)(i) (A) and (B) of this section,
(*2*) Includes the information required by paragraph (c)(4)(ii) (A) through (H) of this section,
(*3*) Includes the amount claimed or reported as a charitable contribution deduction, and
(*4*) In the case of securities described in paragraph (c)(7)(xi)(B) of this section, also includes the pertinent average trading price (as described in paragraph (c)(7)(xi)(B)(*2*)(iii) of this section).

(B) *Number of appraisal summaries.* A separate appraisal summary for each item of property described in paragraph (c)(1) of this section must be attached to the donor's return. If, during the donor's taxable year, the donor contributes similar items of property described in paragraph (c)(1) of this section to more than one donee, the donor shall attach to the donor's return a separate appraisal summary for each donee. See paragraph (c)(7)(iii) of this section for the definition of similar items of property. If, however, during the donor's taxable year, a donor contributes similar items of property described in paragraph (c)(1) of this section to the same donee, the donor may attach to the donor's return a single appraisal summary with respect to all similar items of property contributed to the same donee. Such an appraisal summary shall provide all the information required by paragraph (c)(4)(ii) of this section for each item of property, except that the appraiser may select any items whose aggregate value is appraised at $100 or less and provide a group description for such items.

(C) *Manner of acquisition, cost basis and donee's signature.*

(1) If a taxpayer has reasonable cause for being unable to provide the information required by paragraph (c)(4)(ii) (D) and (E) of this section (relating to the manner of

acquisition and basis of the contributed property), an appropriate explanation should be attached to the appraisal summary. The taxpayer's deduction will not be disallowed simply because of the inability (for reasonable cause) to provide these items of information.

(*2*) In rare and unusual circumstances in which it is impossible for the taxpayer to obtain the signature of the donee on the appraisal summary as required by paragraph (c)(4)(i)(B) of this section, the taxpayer's deduction will not be disallowed for that reason provided that the taxpayer attaches a statement to the appraisal summary explaining, in detail, why it was not possible to obtain the donee's signature. For example, if the donee ceases to exist as an entity subsequent to the date of the contribution and prior to the date when the appraisal summary must be signed, and the donor acted reasonably in not obtaining the donee's signature at the time of the contribution, relief under this paragraph (c)(4)(iv)(C)(*2*) would generally be appropriate.

(D) *Information excluded from certain appraisal summaries.* The information required by paragraph (c)(4)(i)(C), paragraph (c)(4)(ii) (D), (E), (H) through (M), and paragraph (c)(4)(iv)(A)(*3*), and the average trading price referred to in paragraph (c)(4)(iv)(A)(*4*) of this section do not have to be included on the appraisal summary at the time it is signed by the donee or a copy is provided to the donee pursuant to paragraph (c)(4)(iv)(E) of this section.

(E) *Statement to be furnished by donors to donees.* Every donor who presents an appraisal summary to a donee for signature after June 6, 1988, in order to comply with paragraph (c)(4)(i)(B) of this section shall furnish a copy of the appraisal summary to such donee.

(F) *Appraisal summary required to be provided to partners and S corporation shareholders.* If the donor is a partnership or S corporation, the donor shall provide a copy of the appraisal summary to every partner or shareholder, respectively, who receives an allocation of a charitable contribution deduction under section 170 with respect to the property described in the appraisal summary.

(G) *Partners and S corporation shareholders.* A partner of a partnership or shareholder of an S corporation who receives an allocation of a deduction under section 170 for a charitable contribution of property to which this paragraph (c) applies must attach a copy of the partnership's or S corporation's appraisal summary to the tax return on which the deduction for the contribution is first claimed. If such appraisal summary is not attached, the partner's or shareholder's deduction shall not be allowed except as provided for in paragraph (c)(4)(iv)(H) of this section.

(H) *Failure to attach appraisal summary.* In the event that a donor fails to attach to the donor's return an appraisal summary as required by paragraph (c)(2)(i)(B) of this section, the Internal Revenue Service may request that the donor submit the appraisal summary within 90 days of the request. If such a request is made and the donor complies with the request within the 90-day period, the deduction under section 170 shall not be disallowed for failure to attach the appraisal summary, provided that the donor's failure to attach the appraisal summary was a good faith omission and the requirements of paragraph (c) (3) and (4) of this section are met (including the completion of the qualified appraisal prior to the date specified in paragraph (c)(3)(iv)(B) of this section).

[T.D. 8002, 49 FR 50664, 50666, Dec. 31, 1984, as amended by T.D. 8003, 49 FR 50659, Dec. 31, 1984; T.D. 8199, 53 FR 16080, May 5, 1988; 53 FR 18372, May 23, 1988; T.D. 8623, 60 FR 53128, Oct. 12, 1995; T.D. 8690, 61 FR 65952, Dec. 16, 1996]

Source: https://www.govregs.com/regulations/expand/title26_chapterI_part1_subjgrp2_section1.170A-17#title26_chapterI_part1_subjgrp2_section1.170A-1

Appendix U: Revenue Procedure 65-19
Retail Sales Prices of Items in Decedent's Estate

SECTION 1: PURPOSE

The purpose of this Revenue Procedure is to set forth the procedure for determining the retail sales price of certain items of tangible personal property, which are includible in a decedent's gross estate, for purposes of applying the provisions of paragraph (b) of section 20.2031-1 of the Estate Tax Regulations, as amended by T.D. 6826, page 367, this Bulletin, relating to the valuation of such items.

SECTION 2: BACKGROUND

Paragraph (b) of section 20.2031-1 of the Estate Tax Regulations, as amended by T.D. 6826, provides that in the case of an item of property includible in the decedent's gross estate which is generally obtained by the public in the retail market the fair market value of the item is the price at which it or a comparable item would be sold at retail. In applying this rule, it is necessary to determine that the retail sales price of certain items of tangible personal property which, while generally available to a member of the general public at retail establishments, frequently are obtained by members of the general public at a public auction or through sales which result from advertisements placed in the classified section of a newspaper by individual owners who are interested in selling such items.

SECTION 3: INSTRUCTIONS TO TAXPAYERS AND SERVICE PERSONNEL

Where there is a bona fide sale of tangible personal property as the result of an advertisement in the classified section of a newspaper and the property is of a type often sold by owners by such means, or there is a bona fide sale on an item of personal property at a public auction, the price for which it is sold will be presumed to be the retail sales price of the item at the time of sale. Such retail sales price also will be presumed to be the retail sales price of the item on the applicable valuation date if the sale is made within a reasonable period following the applicable valuation date and there is no substantial change in market conditions or other circumstances affecting the value of similar items between the time of the sale and the applicable valuation date.

SECTION 4: EFFECTIVE DATE

Since the provisions of section 3 of this Revenue Procedure do not represent any change in the administrative practice of the Internal Revenue Service with respect to the valuation of the items of property described therein, this Revenue Procedure shall be applied in the case of the returns of all estates currently under consideration as well as those which will be considered in the future.

Appendix V: Revenue Procedure 66-49
Appraisal Guidelines and Formats

[Note that when written in 1966 Revenue Procedure 66-49[607] established procedures and formats for federal appraisals being done primarily for charitable contribution and gift tax functions. However, for charitable contribution tax purposes, RP 66-49 has been superseded by:

- Treasury Regulation §1.170A-13 (1988)
- Revenue Procedure 96-15, "Post Contribution Pre-Filing Procedure,"[608] and
- Pension Protection Act of 2006 (PPA), Section 1219, which generated new Treasury Regulation §1.170A-17(a) that redefines "qualified appraisal"[609] and §1.170A-17(b) that redefines "qualified appraiser"[610] for noncash charitable contribution purposes in which a deduction of more than $5,000 is claimed on returns.]

Section 1. Purpose.

The purpose of this procedure is to provide information and guidelines for taxpayers, individual appraisers, and valuation groups relative to appraisals of contributed property for federal income tax purposes. The procedures outlined are applicable to all types of noncash property for which an appraisal is required such as real property, tangible or intangible personal property, and securities. These procedures are also appropriate for unique properties such as art objects, literary manuscripts, antiques, etc., with respect to which the determination of value often is more difficult.

Sec. 2. Law and Regulations.

.01 Numerous sections of the Internal Revenue Code of 1954, as amended, give rise to a determination of value for federal tax purposes; however, the significant sections for purpose of this Revenue Procedure is section 170, Charitable, Etc., Contributions and Gifts.

.02 Value is defined in section 1.170-1(c) of the Income Tax Regulations as follows:

The fair market value is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts.

.03 This section further provides that:

If the contribution is made in property of a type which the taxpayer sells in the course of his business, the fair market value is the price which the taxpayer would have received if he had sold the contributed property in the lowest usual market in which he customarily sells, at the time and place of contribution (and in case of a contribution of goods in quantity, in the quantity contributed).

.04 As to the measure of proof in determining the fair market value, all factors bearing on value are relevant including, where pertinent, the cost or selling price of the item, sales of comparable properties, cost of reproduction, opinion evidence and appraisals. Fair market value depends upon value in the market and not on intrinsic worth.

.05 The cost or actual selling price of an item within a reasonable time before or after the valuation date may be the best evidence of its fair market value. Before such information is taken

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[607] See Appendix V *Revenue Procedure 66-49 Appraisal Guidelines and Formats.*
[608] See Appendix W *Revenue Procedure 96-15 Post Contribution Pre-Filing Procedure.*
[609] See Appendix R *Treasury Regulation §1.170A-17(a) Definition of Qualified Appraisal.*
[610] See Appendix S *Treasury Regulation §1.170A-17(b) Definition of Qualified Appraiser.*

into account, it must be ascertained that the transaction was at arm's length and that the parties were fully informed as to all relevant facts. Absent such evidence, even the sales price of the item in question will not be persuasive.

.06 Sales of similar properties are often given probative weight by the courts in establishing fair market value. The weight to be given such evidence will be affected by the degree of similarity to the property under appraisal and the proximity of the date of sale to the valuation date.

.07 With respect to reproduction cost as a measure of fair market value, it must be shown that there is a probative correlation between the cost of reproduction and fair market value. Frequently, reproduction cost will be in excess of the fair market value.

.08 Generally, the weight to be given to opinion evidence depends on its origin and the thoroughness with which it is supported by experience and facts. It is only where expert opinion is supported by facts having strong probative value, that the opinion testimony will be given appropriate weight. The underlying facts must corroborate the opinion; otherwise such opinion will be discounted or disregarded.

.09 The weight to be accorded any appraisal made either at or after the valuation date will depend largely upon the competence and knowledge of the appraiser with respect to the property and the market for such property.

Sec. 3 Appraisal Format.

.01 When it becomes necessary to secure an appraisal in order to determine the values of items for federal income tax income, such appraisals should be obtained from qualified and reputable sources, and the appraisal report should accompany the return when it is filed. The more complete the information files with a tax return the more unlikely it will be that the Internal Revenue Service will find it necessary to question items on it. Thus, when reporting a deduction for charitable contributions on an income tax return, it will facilitate the review and the acceptance of the returned values if any appraisals which have been secured are furnished. The above-mentioned regulations prescribe that support of values claims should be submitted and a properly prepared appraisal by a person qualified to make such an appraisal may well constitute the necessary substantiation. In this respect, it is not intended that all value determinations be supported by formal written appraisals as outlined in detail below. This is particularly applicable to minor items of property where value of the property is easily ascertained by methods other than appraisal.

.02 In general, an appraisal report should contain at least the following:

(1) A summary of the appraiser's qualifications.

(2) A statement of the value and the appraiser's definition of the value he has obtained.

(3) The bases upon which the appraisal was made, including any restrictions, understandings, or covenants limiting the use or disposition of the property.

(4) The date as of which the property was valued.

(5) The signature of the appraiser and the date the appraisal was made.

.03 An example of the kind of data which should be contained in a typical appraisal is included below. This relates to the valuation of art objects, but a similar detailed breakdown can be outlined for any type of property. Appraisals of art objects, paintings in particular, should include:

(1) A complete description of the object, indicating the size, the subject matter, the medium, the name of the artist, approximate date created, the interest transferred, etc.

(2) The cost, date, and manner of acquisition.

(3) A history of the item including proof of authenticity such as a certificate of authentication if such exists.

(4) A photograph of a size and quality fully identifying the subject matter, preferably a 10" x 12" or larger print.

(5) A statement of the factors upon which the appraisal was based, such as:

(a) Sales of other works by the same artist particularly on or around the valuation date.

(b) Quoted prices in dealers' catalogs of the artist's works or of other artists of comparable stature.

(c) The economic state of the art market at or around the time of valuation, particularly with respect to the specific property.

(d) A record of any exhibitions at which the particular art object had been displayed.

(e) A statement as to the standing of the artist in his profession and in the particular school or time period.

.04 Although an appraisal report meets these requirements, the Internal Revenue Service is not relieved of the responsibility of reviewing appraisals to the extent deemed necessary.

Sec. 4. Review of Valuation Appraisals.

.01 While the Service is responsible for reviewing appraisals, it is not responsible for making appraisals; the burden of supporting the fair market value listed on a return is the taxpayer's. The Internal Revenue Service cannot accord recognition to any appraiser or group of appraisers from the standpoint of unquestioned acceptance of their appraisals. Furthermore, the Service cannot approve valuations or appraisals prior to the actual filing of the tax return to which the appraisal pertains and cannot issue advance rulings approving or disapproving such appraisals. [Note: Superseded by Rev. Proc. 96-15 – Author.]

.02 In determining the acceptability of the claimed value of the donated property, the Service may either accept the value claimed based on information or appraisals submitted with the return or make its own determination as to the fair market value. In either instance, the Service may find it necessary to:

(1) contact the taxpayer and ask for additional information,

(2) refer the valuation problem to a Service appraiser or valuation specialist,

(3) recommend that an independent appraiser be employed by the Service to appraise the asset in question. (This latter course is frequently used by the Service when objects requiring appraisers of highly specialized experience and knowledge are involved.)

Appendix W: Revenue Procedure 96-15
Post Contribution Pre-Filing Procedure

This IRS Revenue Procedure is a means of resolving tax controversy as early as possible. Taxpayers who comply with the procedure's provisions may rely on the Statement of Value obtained from the Internal Revenue Service and thereby be assured that the value will not be challenged upon audit of their tax return. The Statement of Value, once received, can be used to substantiate the value of art for income, estate and gift tax purposes before filing the return.

Requests for a Statement of Value for an item must be submitted prior to the filing of the federal tax return. This procedure applies to an item of art that has been appraised at $50,000 or more.

For a **charitable donation**, the request must include the following:

- A copy of a qualified appraisal of the item of art. The appraisal must meet the requirements of section 1.170A-13(c)3 of the Income Tax Regulations. The appraisal must be made not earlier than 60 days prior to the date of contribution.
- A user fee of $2,500 (for 1-3 items) and $250 for each additional item
- A completed appraisal summary (Section B of IRS Form 8283, *Noncash Charitable Contributions*)[611]

For **estate and gift tax requests**, the request must include the following. (Note that since the estate and gift tax regulations are not as detailed as the income tax regulations for noncash charitable contributions, the specific requirements are enumerated in this procedure.)

- A copy of an appraisal of the item of art. The appraisal must include information listed in section 8 of the revenue procedure. Many of these are qualified appraiser and qualified appraisal requirements.
- A user fee of $2,500 (for 1-3 items) and $250 for each additional item
- A complete description of the item of art
- The appraised fair market value
- The cost, date and manner of acquisition
- The valuation date

Timing. Requests received after July 15, but on or before January 15 will ordinarily result in a Statement of Value being issued by June 30 of that calendar year. Requests received after January 15, but on or before July 15 will ordinarily be processed by December 31 of that calendar year.

Findings. If the Service agrees with the value reported on the taxpayer's appraisal, the Service will issue a Statement of Value approving the appraisal. A copy of the Statement of Value must be attached to and filed with the taxpayer's return. If the Service disagrees with the value reported on the taxpayer's appraisal, the Service will issue the Services determination of value, and the basis for its disagreement with the taxpayer's appraisal. Fees paid are nonrefundable.

[611] See Appendix O *IRS Form 8283 Noncash Charitable Contributions.*



Appendix X: Treasury Regulation §1.170A-16

Substantiation and reporting requirements for noncash charitable contributions

§1.170A-16(a) *Substantiation of charitable contributions of less than $250* -

(1) *Individuals, partnerships, and certain corporations required to obtain receipt.* Except as provided in paragraph (a)(2) of this section, no deduction is allowed under section 170(a) for a noncash charitable contribution of less than $250 by an individual, partnership, S corporation, or C corporation that is a personal service corporation or closely held corporation unless the donor maintains for each contribution a receipt from the donee showing the following information:

(i) The name and address of the donee;

(ii) The date of the contribution;

(iii) A description of the property in sufficient detail under the circumstances (taking into account the value of the property) for a person who is not generally familiar with the type of property to ascertain that the described property is the contributed property; and

(iv) In the case of securities, the name of the issuer, the type of security, and whether the securities are publicly traded securities within the meaning of § 1.170A-13(c)(7)(xi).

(2) *Substitution of reliable written records* - (i) *In general.* If it is impracticable to obtain a receipt (for example, where a donor deposits property at a donee's unattended drop site), the donor may satisfy the recordkeeping rules of this paragraph (a) by maintaining reliable written records, as described in paragraphs (a)(2)(ii) and (iii) of this section, for the contributed property.

(ii) *Reliable written records.* The reliability of written records is to be determined on the basis of all of the facts and circumstances of a particular case, including the proximity in time of the written record to the contribution.

(iii) *Contents of reliable written records.* Reliable written records must include -

(A) The information required by paragraph (a)(1) of this section;

(B) The fair market value of the property on the date the contribution was made;

(C) The method used in determining the fair market value; and

(D) In the case of a contribution of clothing or a household item as defined in § 1.170A-18(c), the condition of the item.

(3) *Additional substantiation rules may apply.* For additional substantiation rules, see paragraph (f) of this section.

(b) *Substantiation of charitable contributions of $250 or more but not more than $500.* No deduction is allowed under section 170(a) for a noncash charitable contribution of $250 or more but not more than $500 unless the donor substantiates the contribution with a contemporaneous written acknowledgment, as described in section 170(f)(8) and § 1.170A-13(f).

(c) *Substantiation of charitable contributions of more than $500 but not more than $5,000* - (1) *In general.* No deduction is allowed under section 170(a) for a noncash charitable contribution of more than $500 but not more than $5,000 unless the donor substantiates the contribution with a

contemporaneous written acknowledgment, as described in section 170(f)(8) and § 1.170A-13(f), and meets the applicable requirements of this section.

(2) *Individuals, partnerships, and certain corporations also required to file Form 8283 (Section A).* No deduction is allowed under section 170(a) for a noncash charitable contribution of more than $500 but not more than $5,000 by an individual, partnership, S corporation, or C corporation that is a personal service corporation or closely held corporation unless the donor completes Form 8283 (Section A), "Noncash Charitable Contributions," as provided in paragraph (c)(3) of this section, or a successor form, and files it with the return on which the deduction is claimed.

(3) *Completion of Form 8283 (Section A).* A completed Form 8283 (Section A) includes -

(i) The donor's name and taxpayer identification number (for example, a social security number or employer identification number);

(ii) The name and address of the donee;

(iii) The date of the contribution;

(iv) The following information about the contributed property:

(A) A description of the property in sufficient detail under the circumstances, taking into account the value of the property, for a person who is not generally familiar with the type of property to ascertain that the described property is the contributed property;

(B) In the case of real or tangible personal property, the condition of the property;

(C) In the case of securities, the name of the issuer, the type of security, and whether the securities are publicly traded securities within the meaning of § 1.170A-13(c)(7)(xi);

(D) The fair market value of the property on the date the contribution was made and the method used in determining the fair market value;

(E) The manner of acquisition (for example, by purchase, gift, bequest, inheritance, or exchange), and the approximate date of acquisition of the property by the donor (except that in the case of a contribution of publicly traded securities as defined in § 1.170A-13(c)(7)(xi), a representation that the donor held the securities for more than one year is sufficient) or, if the property was created, produced, or manufactured by or for the donor, the approximate date the property was substantially completed;

(F) The cost or other basis, adjusted as provided by section 1016, of the property (except that the cost or basis is not required for contributions of publicly traded securities (as defined in § 1.170A-13(c)(7)(xi)) that would have resulted in long-term capital gain if sold on the contribution date, unless the donor has elected to limit the deduction to basis under section 170(b)(1)(C)(iii));

(G) In the case of tangible personal property, whether the donee has certified it for a use related to the purpose or function constituting the donee's basis for exemption under section 501, or in the case of a governmental unit, an exclusively public purpose; and

(v) Any other information required by Form 8283 (Section A) or the instructions to Form 8283 (Section A).

(4) *Additional requirement for certain vehicle contributions.* In the case of a contribution of a qualified vehicle described in section 170(f)(12)(E) for which an acknowledgment by the donee organization is required under section 170(f)(12)(D), the donor must attach a copy of

the acknowledgment to the Form 8283 (Section A) for the return on which the deduction is claimed.

(5) *Additional substantiation rules may apply.* For additional substantiation rules, see paragraph (f) of this section.

(d) *Substantiation of charitable contributions of more than $5,000* - (1) *In general.* Except as provided in paragraph (d)(2) of this section, no deduction is allowed under section 170(a) for a noncash charitable contribution of more than $5,000 unless the donor -

(i) Substantiates the contribution with a contemporaneous written acknowledgment, as described in section 170(f)(8) and § 1.170A-13(f);

(ii) Obtains a qualified appraisal, as defined in § 1.170A-17(a)(1), prepared by a qualified appraiser, as defined in § 1.170A-17(b)(1); and

(iii) Completes Form 8283 (Section B), as provided in paragraph (d)(3) of this section, or a successor form, and files it with the return on which the deduction is claimed.

(2) *Exception for certain noncash contributions.* A qualified appraisal is not required, and a completed Form 8283 (Section A) containing the information required in paragraph (c)(3) of this section meets the requirements of paragraph (d)(1)(iii) of this section for contributions of -

(i) Publicly traded securities as defined in § 1.170A-13(c)(7)(xi);

(ii) Property described in section 170(e)(1)(B)(iii) (certain intellectual property);

(iii) A qualified vehicle described in section 170(f)(12)(A)(ii) for which an acknowledgment under section 170(f)(12)(B)(iii) is provided; and

(iv) Property described in section 1221(a)(1) (inventory and property held by the donor primarily for sale to customers in the ordinary course of the donor's trade or business).

(3) *Completed Form 8283 (Section B).* A completed Form 8283 (Section B) includes -

(i) The donor's name and taxpayer identification number (for example, a social security number or employer identification number);

(ii) The donee's name, address, taxpayer identification number, signature, the date signed by the donee, and the date the donee received the property;

(iii) The appraiser's name, address, taxpayer identification number, appraiser declaration, as described in paragraph (d)(4) of this section, signature, and the date signed by the appraiser;

(iv) The following information about the contributed property:

(A) The fair market value on the valuation effective date, as defined in § 1.170A-17(a)(5)(i).

(B) A description in sufficient detail under the circumstances, taking into account the value of the property, for a person who is not generally familiar with the type of property to ascertain that the described property is the contributed property.

(C) In the case of real property or tangible personal property, the condition of the property;

(v) The manner of acquisition (for example, by purchase, gift, bequest, inheritance, or exchange), and the approximate date of acquisition of the property by the donor, or, if the

property was created, produced, or manufactured by or for the donor, the approximate date the property was substantially completed;

(vi) The cost or other basis of the property, adjusted as provided by section 1016;

(vii) A statement explaining whether the charitable contribution was made by means of a bargain sale and, if so, the amount of any consideration received for the contribution; and

(viii) Any other information required by Form 8283 (Section B) or the instructions to Form 8283 (Section B).

(4) *Appraiser declaration.* The appraiser declaration referred to in paragraph (d)(3)(iii) of this section must include the following statement: "I understand that my appraisal will be used in connection with a return or claim for refund. I also understand that, if there is a substantial or gross valuation misstatement of the value of the property claimed on the return or claim for refund that is based on my appraisal, I may be subject to a penalty under section 6695A of the Internal Revenue Code, as well as other applicable penalties. I affirm that I have not been at any time in the three-year period ending on the date of the appraisal barred from presenting evidence or testimony before the Department of the Treasury or the Internal Revenue Service pursuant to 31 U.S.C. 330(c)."

(5) *Donee signature* - (i) *Person authorized to sign.* The person who signs Form 8283 (Section B) for the donee must be either an official authorized to sign the tax or information returns of the donee, or a person specifically authorized to sign Forms 8283 (Section B) by that official. In the case of a donee that is a governmental unit, the person who signs Form 8283 (Section B) for the donee must be an official of the governmental unit.

(ii) *Effect of donee signature.* The signature of the donee on Form 8283 (Section B) does not represent concurrence in the appraised value of the contributed property. Rather, it represents acknowledgment of receipt of the property described in Form 8283 (Section B) on the date specified in Form 8283 (Section B) and that the donee understands the information reporting requirements imposed by section 6050L and § 1.6050L-1.

(iii) *Certain information not required on Form 8283 (Section B) before donee signs.* Before Form 8283 (Section B) is signed by the donee, Form 8283 (Section B) must be completed (as described in paragraph (d)(3) of this section), except that it is not required to contain the following:

(A) The appraiser declaration or information about the qualified appraiser.

(B) The manner or date of acquisition.

(C) The cost or other basis of the property.

(D) The appraised fair market value of the contributed property.

(E) The amount claimed as a charitable contribution.

(6) *Additional substantiation rules may apply.* For additional substantiation rules, see paragraph (f) of this section.

(7) *More than one appraiser.* More than one appraiser may appraise the donated property. If more than one appraiser appraises the property, the donor does not have to use each appraiser's appraisal for purposes of substantiating the charitable contribution deduction under this paragraph (d). If the donor uses the appraisal of more than one appraiser, or if two or more appraisers contribute to a single appraisal, each appraiser shall comply with the requirements of this paragraph (d) and the requirements in § 1.170A-17, including signing the qualified appraisal and appraisal summary.

(e) *Substantiation of noncash charitable contributions of more than $500,000* - (1) *In general.* Except as provided in paragraph (e)(2) of this section, no deduction is allowed under section 170(a) for a noncash charitable contribution of more than $500,000 unless the donor -

(i) Substantiates the contribution with a contemporaneous written acknowledgment, as described in section 170(f)(8) and § 1.170A-13(f);

(ii) Obtains a qualified appraisal, as defined in § 1.170A-17(a)(1), prepared by a qualified appraiser, as defined in § 1.170A-17(b)(1);

(iii) Completes, as described in paragraph (d)(3) of this section, Form 8283 (Section B) and files it with the return on which the deduction is claimed; and

(iv) Attaches the qualified appraisal of the property to the return on which the deduction is claimed.

(2) *Exception for certain noncash contributions.* For contributions of property described in paragraph (d)(2) of this section, a qualified appraisal is not required, and a completed Form 8283 (Section A), containing the information required in paragraph (c)(3) of this section, meets the requirements of paragraph (e)(1)(iii) of this section.

(3) *Additional substantiation rules may apply.* For additional substantiation rules, see paragraph (f) of this section.

(f) *Additional substantiation rules* - (1) *Form 8283 (Section B) furnished by donor to donee.* A donor who presents a Form 8283 (Section B) to a donee for signature must furnish to the donee a copy of the Form 8283 (Section B).

(2) *Number of Forms 8283 (Section A or Section B)* - (i) *In general.* For each item of contributed property for which a Form 8283 (Section A or Section B) is required under paragraphs (c), (d), or (e) of this section, a donor must attach a separate Form 8283 (Section A or Section B) to the return on which the deduction for the item is claimed.

(ii) *Exception for similar items.* The donor may attach a single Form 8283 (Section A or Section B) for all similar items of property, as defined in § 1.170A-13(c)(7)(iii), contributed to the same donee during the donor's taxable year, if the donor includes on Form 8283 (Section A or Section B) the information required by paragraph (c)(3) or (d)(3) of this section for each item of property.

(3) *Substantiation requirements for carryovers of noncash contribution deductions.* The rules in paragraphs (c), (d), and (e) of this section (regarding substantiation that must be submitted with a return) also apply to the return for any carryover year under section 170(d).

(4) *Partners and S corporation shareholders* - (i) *Form 8283 (Section A or Section B) must be provided to partners and S corporation shareholders.* If the donor is a partnership or S corporation, the donor must provide a copy of the completed Form 8283 (Section A or Section B) to every partner or shareholder who receives an allocation of a charitable contribution deduction under section 170 for the property described in Form 8283 (Section A or Section B). Similarly, a recipient partner or shareholder that is a partnership or S corporation must provide a copy of the completed Form 8283 (Section A or Section B) to each of its partners or shareholders who receives an allocation of a charitable contribution deduction under section 170 for the property described in Form 8283 (Section A or Section B).

(ii) *Partners and S corporation shareholders must attach Form 8283 (Section A or Section B) to return.* A partner of a partnership or shareholder of an S corporation who receives an allocation of a charitable contribution deduction under section 170 for property to which paragraph (c), (d), or (e) of this section applies must attach a copy of the partnership's or S

corporation's completed Form 8283 (Section A or Section B) to the return on which the deduction is claimed.

(5) *Determination of deduction amount for purposes of substantiation rules* - (i) *In general.* In determining whether the amount of a donor's deduction exceeds the amounts set forth in section 170(f)(11)(B) (noncash contributions exceeding $500), 170(f)(11)(C) (noncash contributions exceeding $5,000), or 170(f)(11)(D) (noncash contributions exceeding $500,000), the rules of paragraphs (f)(5)(ii) and (iii) of this section apply.

(ii) *Similar items of property must be aggregated.* Under section 170(f)(11)(F), the donor must aggregate the amount claimed as a deduction for all similar items of property, as defined in § 1.170A-13(c)(7)(iii), contributed during the taxable year. For rules regarding the number of qualified appraisals and Forms 8283 (Section A or Section B) required if similar items of property are contributed, see § 1.170A-13(c)(3)(iv)(A) and (4)(iv)(B).

(iii) *For contributions of certain inventory and scientific property, excess of amount claimed over cost of goods sold taken into account* - (A) *In general.* In determining the amount of a donor's contribution of property to which section 170(e)(3) (relating to contributions of inventory and other property) or (e)(4) (relating to contributions of scientific property used for research) applies, the donor must take into account only the excess of the amount claimed as a deduction over the amount that would have been treated as the cost of goods sold if the donor had sold the contributed property to the donee.

(B) *Example.* The following example illustrates the rule of this paragraph (f)(5)(iii):

Example. *X* Corporation makes a contribution of inventory described in section 1221(a)(2). The contribution, described in section 170(e)(3), is for the care of the needy. The cost of the property to *X* Corporation is $5,000 and the fair market value of the property at the time of the contribution is $11,000. Pursuant to section 170(e)(3)(B), *X* Corporation claims a charitable contribution deduction of $8,000 ($5,000 + 1/2 × ($11,000 − 5,000) = $8,000). The amount taken into account for purposes of determining the $5,000 threshold of paragraph (d) of this section is $3,000 ($8,000−$5,000).

(g) *Effective/applicability date.* This section applies to contributions made after July 30, 2018. Taxpayers may rely on the rules of this section for contributions made after June 3, 2004, or appraisals prepared for returns or submissions filed after August 17, 2006.

[T.D.9836, 83 FR 36423, July 30, 2018]

Source: https://www.govregs.com/regulations/expand/title26_chapterI_part1_subjgrp2_section1.170A-17#title26_chapterI_part1_subjgrp2_section1.170A-1

Appendix Y: Pension Protection Act of 2006
Section 1216

SEC. 1216. LIMITATION OF DEDUCTION FOR CHARITABLE CONTRIBUTIONS OF CLOTHING AND HOUSEHOLD ITEMS.

(a) IN GENERAL.—Subsection (f) of section 170, as amended by this Act, is amended by adding at the end the following new paragraph:

(16) CONTRIBUTIONS OF CLOTHING AND HOUSEHOLD ITEMS.—

(A) IN GENERAL.—In the case of an individual, partnership, or corporation, no deduction shall be allowed under subsection (a) for any contribution of clothing or a household item unless such clothing or household item is in good used condition or better.

(B) ITEMS OF MINIMAL VALUE.—Notwithstanding subparagraph (A), the Secretary may by regulation deny a deduction under subsection (a) for any contribution of clothing or a household item which has minimal monetary value.

(C) EXCEPTION FOR CERTAIN PROPERTY.—Subparagraphs (A) and (B) shall not apply to any contribution of a single item of clothing or a household item for which a deduction of more than $500 is claimed if the taxpayer includes with the taxpayer's return a qualified appraisal with respect to the property.

(D) HOUSEHOLD ITEMS.—For purposes of this paragraph—

(i) IN GENERAL.—The term 'household items' includes furniture, furnishings, electronics, appliances, linens, and other similar items.

(ii) EXCLUDED ITEMS.—Such term does not include—

(I) food,

(II) paintings, antiques, and other objects of art,

(III) jewelry and gems, and

(IV) collections.

(E) SPECIAL RULE FOR PASS-THRU ENTITIES.—In the case of a partnership or S corporation, this paragraph shall be applied at the entity level, except that the deduction shall be denied at the partner or shareholder level.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after the date of enactment of this Act.

Appendix Z: Real Estate Appraisal Form

Uniform Residential Appraisal Report File

The purpose of this summary appraisal report is to provide the lender/client with an accurate, and adequately supported, opinion of the market value of the subject property.

SUBJECT

Property Address	City	State	Zip Code
Borrower	Owner of Public Record	County	
Legal Description			
Assessor's Parcel #	Tax Year	R.E. Taxes $	
Neighborhood Name	Map Reference	Census Tract	
Occupant ☐ Owner ☐ Tenant ☐ Vacant	Special Assessments $	☐ PUD	HOA $ ☐ per year ☐ per month
Property Rights Appraised ☐ Fee Simple ☐ Leasehold ☐ Other (describe)			
Assignment Type ☐ Purchase Transaction ☐ Refinance Transaction ☐ Other (describe)			
Lender/Client	Address		
Is the subject property currently offered for sale or has it been offered for sale in the twelve months prior to the effective date of this appraisal? ☐ Yes ☐ No			
Report data source(s) used, offering price(s), and date(s).			

CONTRACT

I ☐ did ☐ did not analyze the contract for sale for the subject purchase transaction. Explain the results of the analysis of the contract for sale or why the analysis was not performed.

Contract Price $ | Date of Contract | Is the property seller the owner of public record? ☐ Yes ☐ No | Data Source(s)

Is there any financial assistance (loan charges, sale concessions, gift or downpayment assistance, etc.) to be paid by any party on behalf of the borrower? ☐ Yes ☐ No
If Yes, report the total dollar amount and describe the items to be paid.

NEIGHBORHOOD

Note: Race and the racial composition of the neighborhood are not appraisal factors.

Neighborhood Characteristics				One-Unit Housing Trends				One-Unit Housing		Present Land Use %	
Location	☐ Urban	☐ Suburban	☐ Rural	Property Values	☐ Increasing	☐ Stable	☐ Declining	PRICE	AGE	One-Unit	%
Built-Up	☐ Over 75%	☐ 25–75%	☐ Under 25%	Demand/Supply	☐ Shortage	☐ In Balance	☐ Over Supply	$ (000)	(yrs)	2-4 Unit	%
Growth	☐ Rapid	☐ Stable	☐ Slow	Marketing Time	☐ Under 3 mths	☐ 3–6 mths	☐ Over 6 mths	Low		Multi-Family	%
Neighborhood Boundaries								High		Commercial	%
								Pred.		Other	%

Neighborhood Description

Market Conditions (including support for the above conclusions)

SITE

Dimensions | Area | Shape | View

Specific Zoning Classification | Zoning Description

Zoning Compliance ☐ Legal ☐ Legal Nonconforming (Grandfathered Use) ☐ No Zoning ☐ Illegal (describe)

Is the highest and best use of the subject property as improved (or as proposed per plans and specifications) the present use? ☐ Yes ☐ No If No, describe

Utilities	Public	Other (describe)		Public	Other (describe)	Off-site Improvements—Type	Public	Private
Electricity	☐	☐	Water	☐	☐	Street	☐	☐
Gas	☐	☐	Sanitary Sewer	☐	☐	Alley	☐	☐

FEMA Special Flood Hazard Area ☐ Yes ☐ No | FEMA Flood Zone | FEMA Map # | FEMA Map Date

Are the utilities and off-site improvements typical for the market area? ☐ Yes ☐ No If No, describe

Are there any adverse site conditions or external factors (easements, encroachments, environmental conditions, land uses, etc.)? ☐ Yes ☐ No If Yes, describe

IMPROVEMENTS

General Description	Foundation	Exterior Description materials/condition	Interior materials/condition
Units ☐ One ☐ One with Accessory Unit	☐ Concrete Slab ☐ Crawl Space	Foundation Walls	Floors
# of Stories	☐ Full Basement ☐ Partial Basement	Exterior Walls	Walls
Type ☐ Det. ☐ Att. ☐ S-Det./End Unit	Basement Area sq. ft.	Roof Surface	Trim/Finish
☐ Existing ☐ Proposed ☐ Under Const.	Basement Finish %	Gutters & Downspouts	Bath Floor
Design (Style)	☐ Outside Entry/Exit ☐ Sump Pump	Window Type	Bath Wainscot
Year Built	Evidence of ☐ Infestation	Storm Sash/Insulated	Car Storage ☐ None
Effective Age (Yrs)	☐ Dampness ☐ Settlement	Screens	☐ Driveway # of Cars
Attic ☐ None	Heating ☐ FWA ☐ HWBB ☐ Radiant	Amenities ☐ Woodstove(s) #	Driveway Surface
☐ Drop Stair ☐ Stairs	☐ Other Fuel	☐ Fireplace(s) # ☐ Fence	☐ Garage # of Cars
☐ Floor ☐ Scuttle	Cooling ☐ Central Air Conditioning	☐ Patio/Deck ☐ Porch	☐ Carport # of Cars
☐ Finished ☐ Heated	☐ Individual ☐ Other	☐ Pool ☐ Other	☐ Att. ☐ Det. ☐ Built-in

Appliances ☐ Refrigerator ☐ Range/Oven ☐ Dishwasher ☐ Disposal ☐ Microwave ☐ Washer/Dryer ☐ Other (describe)

Finished area **above** grade contains: Rooms | Bedrooms | Bath(s) | Square Feet of Gross Living Area Above Grade

Additional features (special energy efficient items, etc.)

Describe the condition of the property (including needed repairs, deterioration, renovations, remodeling, etc.).

Are there any physical deficiencies or adverse conditions that affect the livability, soundness, or structural integrity of the property? ☐ Yes ☐ No If Yes, describe

Does the property generally conform to the neighborhood (functional utility, style, condition, use, construction, etc.)? ☐ Yes ☐ No If No, describe

Appendix AA: Agreement for an Oral Opinion of Value (Oral Report Summary)

My client has requested that on this date I provide an oral opinion of value for various items of property for the purpose of developing an opinion of _____[type of value]_____value for each item of property inspected. Because of limiting conditions such as the limited time constraints imposed and the limited research facilities available, in some cases values may have been rendered with minimal or no market and value research. In such cases, values are based only on research done, if any, combined with my past personal market observations and experience with similar property types. At times, opinions of value which are based on research will differ from minimally- or non-researched opinions. The client agrees to assume the risk associated with such value opinions and holds the appraiser free of any form of liability in excess of the amount of the fee collected for this assignment.

Additional terms

- *The client declines to retain the services of the appraiser or other experts to prepare a formal, fully researched and written appraisal at an additional cost. The appraiser is a generalist and not a specialist in any particular property type.*
- *Items appraised are briefly inspected to determine readily apparent identity only. No further authentication services were requested by the client or performed by the appraiser.*
- *The verbal information provided by the appraiser may be used only by the client and parties identified by the appraiser as intended users.*
- *The appraiser verbally communicated to the client any limiting conditions and extraordinary assumptions encountered during the course on the property examination.*
- *The appraiser reserves the right to not provide an oral opinion of value for certain items if the appraiser feels that he lacks sufficient competency and/or adequate market knowledge or experience.*
- *The client was advised to record this oral valuation session for record keeping purposes by making use of hand-written notes or audio or video recordings.*

****

I agree to the above conditions. The appraiser is authorized to proceed with the oral appraisal assignment.

Client signature: _____ *Date:* _____

****

Appraiser's notes and conclusions (brief descriptions and values):

_____
_____
_____
_____
_____
_____

Certification of the Appraiser



I certify that, to the best of my knowledge and belief the statements of fact contained in this report are true and correct; the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions; I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest with respect to the parties involved; I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment; I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding the agreement to perform acceptance this assignment; my engagement in this assignment was not contingent upon developing or reporting predetermined results; my compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal; my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*. The scope of work for this assignment is less than typically followed in a standard appraisal practice when producing a formal written report; I have made a personal inspection of the property that is the subject of this report; no one provided significant personal property appraisal assistance to the person signing this report.

Appraiser's signature: _____ *Date:* _____ [612]

[612] This agreement form serves additional purposes including being a written summary of the oral appraisal as well as including the required signed USPAP certification.

Appendix BB: IRS Guidance for Donation Appraisals of Art Valued Over $50,000—Object Identification

Preferred Object Identification Format for Art* Valued Over $50,000

Note: This format is recommended for the object identification section in your appraisal report. It is not intended to stand alone as an appraisal report.

** Art includes paintings, sculptures, watercolors, prints, drawings, ceramics, antiques, decorative arts, textiles, carpets, silver, rare manuscripts, historical memorabilia, and other similar objects.*

VALUATION EFFECTIVE DATE:

FAIR MARKET VALUE: $

ARTIST: Artist (last name, first name) (nationality, dates) or Culture or Maker

DESCRIPTION: A complete description of the object, including but not limited to:

- Title or Type of Object
- Date or Period
- Medium (materials and techniques)
- Dimensions
- Signature, inscriptions or other identifying details
- Subject matter

PROVENANCE:

EXHIBITIONS:

LITERARY REFERENCES/CATALOGUE RAISONNÉ:

CONDITION:

ACQUISITION COST, DATE AND SOURCE:

APPRAISED VALUE SUPPORT:

AUCTION OR PRIVATE SALES:

PRICE For example:	**SALE, LOCATION, DATE, LOT #**	**DESCRIPTION**
$50,000	Jones Auctions, NY, NY: 06/04/09, #435	*House on a Hill*, 1990 Oil on canvas 24 x 32 inches
$65,000	Smith Gallery, Wash., DC: 5/15/09	*House by a Stream*, 1962 Oil on canvas 20 x 24 inches

Include images of your comparable sales and/or the auction catalogue pages.

March 2011

REASONING FOR APPRAISED VALUE:

The appraisal of each work should provide the basis or reasoning as to how the appraiser arrived at the individual appraised value. Individual comparable sales should be included. These sales should be analyzed in terms of quality, etc. and discussed as to how they relate to the subject property. The item discussion should include commentary regarding any special conditions or circumstances about the property, and a discussion of the quality or importance of the property in relation to other works of art by the same artist, and of the state of the art market at the time of valuation. Whenever possible, statements should be supported with factual evidence.

Note: It is understood that complete information will not be readily available in every case. However, the validity of the appraiser's valuation is enhanced and the IRS's appraisal review facilitated by complete and accurate information. This object identification should be accompanied by a professional quality photograph of the subject property (See photographic requirements).

Source: IRS.gov/pub/irs-utl/appraisal_item_format.pdf



Appendix CC: IRS Guidance for Donation Appraisals of Art Valued Over $20,000—Photographs

INTERNAL REVENUE SERVICE
OFFICE OF ART APPRAISAL SERVICES
Washington, DC

Photographic Requirements for Art, Antiques, Decorative Arts & Other Cultural Properties
Reviewed by Art Appraisal Services and The Commissioner's Art Advisory Panel

The Office of Art Appraisal Services (AAS) and the Commissioner's Art Advisory Panel determine the fair market value of thousands of fine and decorative art objects and other cultural properties based on photographic images and appraisals provided by the taxpayer. Consequently, professional quality color photographs and/or high-resolution digital images of the subject properties are crucial for our review. Cases submitted without photographs cannot be processed in a timely manner. We encourage use of a professional photographer.

Please request that the taxpayer (or representative) provide a color image of each property with a claimed value of $50,000 or more in one of the acceptable photographic formats listed below. Each object should be shown in its entirety with separate images depicting important details, such as the artist's signature, date, labels or other distinguishing features (including damage and repairs). Multiple views are helpful for 3-dimensional works of art.

ACCEPTABLE FORMATS:

- Photographs: Clear, professional-quality 8" x 10" color photographs printed on photographic paper.
- Digital images: High resolution color digital images (labeled with descriptive information) may be submitted on a CD together with a printed image of each object. (Thumbnail size images are acceptable only for identification purposes.) AAS does not require a minimum pixel count, but rather stresses the need for high resolution images printed professionally on photographic paper to produce sharp photographs.
- NOTE: All photographs and digital images submitted to AAS should be labeled with the taxpayer's appraisal object number, artist's name, and title.

UNACCEPTABLE FORMATS:

- Blurry or dark photographs
- Photos where the subject is obscured by glare or flash
- Photos cropping out part of the subject or shot too far away
- Photos smaller than 8" x 10"
- Low resolution digital images
- Photos printed on substandard printers
- Photos printed on low-grade paper (i.e. copier paper)
- Photocopies
- Transparencies

Source: IRS.gov/pub/irs-utl/art_appraisal_services_photographic_requirements.pdf



Appendix DD: Treasury Regulation §1.170A-18
Contributions of Clothing and Household Items

§ 1.170A-18(a) *In general.* Except as provided in paragraph (b) of this section, no deduction is allowed under section 170(a) for a contribution of clothing or a household item (as described in paragraph (c) of this section) unless -

(1) The item is in good used condition or better at the time of the contribution; and

(2) The donor meets the substantiation requirements of § 1.170A-16.

(b) *Certain contributions of clothing or household items with claimed value of more than $500.* The rule described in paragraph (a)(1) of this section does not apply to a contribution of a single item of clothing or a household item for which a deduction of more than $500 is claimed, if the donor submits with the return on which the deduction is claimed a qualified appraisal, as defined in § 1.170A-17(a)(1), of the property prepared by a qualified appraiser, as defined in § 1.170A-17(b)(1), and a completed Form 8283 (Section B), "Noncash Charitable Contributions," as described in § 1.170A-16(d)(3).

(c) *Definition of household items.* For purposes of section 170(f)(16) and this section, the term *household items* includes furniture, furnishings, electronics, appliances, linens, and other similar items. Food, paintings, antiques, and other objects of art, jewelry, gems, and collections are not household items.

(d) *Effective/applicability date.* This section applies to contributions made after July 30, 2018. Taxpayers may rely on the rules of this section for contributions made after August 17, 2006.

[T.D. 9836, 83 FR 36427, July 30, 2018]

Source: https://www.govregs.com/regulations/expand/title26_chapterI_part1_subjgrp2_section1.170A-17#title26_chapterI_part1_subjgrp2_section1.170A-1



Appendix EE: Treasury Regulation §1.170A-1(c)
Definition of Fair Market Value

Treasury Regulation §1.170A-1(c) establishes regulations regarding the definition of the term "fair market value" as it pertains to valuing property being donated to a qualifying organization. It states:

§1.170A-1(c) *Value of a contribution in property.*

(1) If a charitable contribution is made in property other than money, the amount of the contribution is the fair market value of the property at the time of the contribution reduced as provided in section 170(e)(1) and paragraph (a) of § 1.170A-4, or section 170(e)(3) and paragraph (c) of § 1.170A-4A.

(2) The fair market value is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts. If the contribution is made in property of a type which the taxpayer sells in the course of his business, the fair market value is the price which the taxpayer would have received if he had sold the contributed property in the usual market in which he customarily sells, at the time and place of the contribution and, in the case of a contribution of goods in quantity, in the quantity contributed. The usual market of a manufacturer or other producer consists of the wholesalers or other distributors to or through whom he customarily sells, but if he sells only at retail the usual market consists of his retail customers.[613]

Source: https://www.govregs.com/regulations/expand/title26_chapterI_part1_subjgrp2_section1.170A-17#title26_chapterI_part1_subjgrp2_section1.170A-1

[613] See Appendix Q *Tax Regulation §20.2031 and other Federal Estate Tax Issues* which amplifies considerably on the above definition of fair market value by disallowing the consideration of forced sales as comparable market data and restricting the relevant market to that market in which like items most commonly sell to the public.

Appendix FF: Sample Business Letter Template

Return Address Line 1 [1]
Return Address Line 2

Date (Month Day, Year) [2]

Mr./Mrs./Ms./Dr. Full name of recipient [3]
Title/Position of Recipient
Company Name
Address Line 1
Address Line 2

Dear Ms./Mrs./Mr. Last Name: [4]

Subject: Title of Subject [5]

Body Paragraph 1 . . . . . .
. . . . . .

Body Paragraph 2 . . . . . .
. . . . . [6]

Closing (Sincerely...), [7]

Signature [8]

Your Name (Printed) [9]
Your Title

Enclosures: 1. Valuation Section
2. Appraiser's Professional Profile
3. High resolution images CD [10]

Typist's Initials [11]

[1] Your Address

The return address of the sender of the letter so the recipient can easily find out to where to send a reply. Skip a line between your address and the date line. (Not needed if the letter is printed on company letterhead.)

[2] Date

Put the date on which the letter was written in the Month Day, Year format, e.g., *August 30, 2011*. Skip a line between the date and the inside address (some people skip 3 or 4 lines after the date).

[3] Inside Address

The address of the person to whom you are writing along with the name of the recipient, and, if applicable, their title/position and company name. Skip a line between the date and the salutation.

[4] Salutation

Dear Ms./Mrs./Mr. Last Name:, Dear Director of Department Name: or To Whom It May Concern: if recipient's name is unknown. Note that there is a colon after the salutation (not a comma or semicolon). Skip a line between the salutation and the subject line or body.

[5] Subject Line (optional)

Makes it easier for the recipient to find out what the letter is about. Skip a line between the subject line and the body.

[6] Body

The body is where you write the content of the letter; the paragraphs should be single spaced with a skipped line between each paragraph. Do not indent paragraphs as this is a full, left-blocked letter format. Skip a line between the end of the body and the closing.

[7] Closing

Let's the reader know that you are finished with your letter; usually ends with Sincerely, Sincerely yours, Thank you, and so on. Note that there is a comma after the end of the closing and only the first word in the closing is capitalized. Skip 3-4 lines between the closing and the printed name, so that there is room for the signature.

[8] Signature

Your signature will go in this area, usually signed with a pen in black or blue ink.

[9] Printed Name

The printed version of your name, and if desired you can put your title or position on the line underneath it. Skip a line between the printed name and the enclosures.

[10] Enclosures

If the letter contains addenda in addition to the letter itself, include the word "Enclosure(s)." As illustrated above, if you have included various addenda and attachments to the appraisal report and need to ensure that the recipient is aware of each, it would be a good idea to list them by name. As an option, if there is more than one enclosure you could simply type, "Enclosures (#)" with # being the number of other attachments enclosed

[11] Reference Initials

If someone other than yourself typed the letter, skip a line and then include your initials in capital letters followed by the typist's initials in lower case in the following format, such as DJM/gs or DJM:gs.

Appendix GG: Seven Essential Deposition Tips

1. Depositions Generally:
   - A deposition is solely an **interrogation**. Your only role is to give brief answers to questions asked. For this reason:
     - DO NOT volunteer information,
     - DO NOT explain things to the attorney. If he doesn't get it. That's his problem, not yours.
     - DO NOT interrupt counsel when he is asking questions.

2. The friendly opposing counsel:
   - A deposition is not a conversation.
   - The only reason the attorney is taking your deposition is to try and extract information from you, so don't let yourself be lulled into a sense of security by the lawyer's friendly demeanor.
   - Resist any attempts to turn the deposition into a chit-chat or exchange of ideas.

3. The nasty opposing counsel:
   - Try to remain calm and resist anything that tends to make you mad or lose your self-control.
   - Worrying about the legal impact of answers is **your attorney's job**, not yours.
   - Displays of anger and discourtesy toward opposing counsel are particularly unhelpful.
   - DO NOT refuse to answer a question because you are upset with the attorney. This has a terrible impact on the deposition.

4. Keep your eye on the ball:
   - You should maintain a very high level of concentration at all times.
   - **PAUSE**: Count to three before answering a question. Pauses are an important tool for you during the deposition, they allow you to think and to understand the question asked. They also give your attorney an opportunity to object, if need be. **Also, you should make sure you do not give an answer until you're sure you know what question is being asked.**
     - If you don't understand the question, ask the attorney to repeat it or explain it. **DO NOT answer a question until you are absolutely, positively, undoubtedly convinced that you understand what is being asked.**
   - You should be instructed by counsel that you can ask for a break at any time throughout the deposition. This is a useful tool if you are tired, stressed. or angry.
     - If you feel that your attention is flagging due to stress fatigue, etc.— **ask for a break**.
     - **DO NOT ask for a break with a question pending.**
     - **DO NOT ask to speak to your attorney with a question pending. However, if a question is not pending, feel free to ask for a break if you need to speak to your attorney.**

5. Nervousness or stage fright:
   - Almost every person who has ever been deposed is nervous during their first, second, third and sometimes even fourth depositions. Don't be ashamed if you are nervous.
   - Don't worry about it: **again, the legal consequences of answers to questions is your attorney's problem, not yours.** No awards are given for deposition performance, and there's a drawback to appearing glib or over-rehearsed.
   - **Again, concentrate on the question being asked, concentrate on the question being asked, concentrate on the question being asked**—answer only that question and in most cases the answer will be fine.

6. Objections:
   - As everyone knows, lawyers love to make objections and you therefore may be surprised if your attorney does not make many objections during the course of the deposition. The reason

for your attorney's silence is that far greater leeway is allowed during a deposition than at trial.

- If your attorney does object:
    - **Please stop talking and don't go** on until your attorney says, "You may answer."
    - This is a good signal that you need to be careful in answering, and may want to ask counsel to repeat the question until you are sure that you understand it.

7. Most important of all:
    - You will be asked detailed questions about things that happened a long time ago or didn't necessarily involve you: **ONLYANSWER THOSE QUESTIONS THAT YOU KNOW**. Your answers should be based on what you know and not what you suspect or think you believe.
    - You may be given a hard time by counsel if you do not give snappy, quick answers. **Do not be bullied: If you truly don't recall the answer to a question, or are unsure of an answer, then DO NOT HESITATE to say "I don't remember" or "I don't recall."**
    - At the same time, do not resist answering questions calling for an ordinary level of recollection or understanding simply because you get nervous, frustrated, or don't feel like answering.
    - Don't say, "I don't know" to every question.
    - **The key is: avoid extremes or gross speculation or conjecture, while also avoiding dodging the questions asked of you.**

RECAP OF VERY IMPORTANT TIPS

- Concentrate on the question asked, concentrate on the question asked, concentrate on the question asked.
- **Pause** before answering, and answer with only those questions that you know the answer to. If you are not positive of the answer it's completely fine to say that you don't know or don't remember.
- Feel free to ask the attorney to repeat the question. Unless the question has an obvious answer, this is often a good way of thinking about what you need to answer—don't be intimidated if he says something like, "you heard me" or "answer the question."
- If you get angry, frustrated, or tired, ask for a break.

If something such as the above document is given to you by your attorney, consider it as being protected by the attorney-client and attorney work-product privilege. As such it should not be shared with anyone, and is not discoverable. Avoid bringing such a document as this to the deposition, unless you absolutely need to. In that case, avoid reviewing it during questioning, as opposing counsel may ask to see it. If counsel does ask to see it, tell him that your attorney provided it to you and it is your understanding that it is a privileged document.

Appendix HH: Oral Appraisal Report Disclosures Statement

Note that the footnotes used in this Appendix HH are for instructional purposes only and are not to be included in the disclosures statement.

I have prepared this disclosure statement in order to better inform my client of certain assignment conditions which are critical to properly understanding and making use of oral appraisal report assignment results. Only the intended user(s) identified in this assignment's Appraiser-Client Agreement can rely on this appraisal report and only for the intended use as stated in the Agreement.[614] The objective of this oral appraisal report is to **[develop opinions of orderly and forced liquidation values of those items having a likely orderly liquidation value in excess of $100. The subject property is considered general residential contents used for utilitarian and decorative purposes. Condition is good unless stated otherwise.]**

I orally disclosed to the client any limiting conditions, assumptions or other assignment conditions encountered. Assumptions used could affect assignment results. I carefully communicated with my client and properly identify the appraisal problem, assignment objectives, concerns, priorities and the scope of work required in order for me to develop credible assignment results. I assumed the client's statements and claims were factual, including ownership interest without encumbrances.

I used standard appraisal research and reporting methodology. Only the sales comparison approach to value was used. The cost approach was analyzed but not developed because the property was not being replaced with a new property. The income approach was analyzed but not developed because the property was not income-producing.

I based my oral value opinions on the orderly liquidation market, unless the client had no interest in retaining the property whatsoever in which case I also included an opinion of forced liquidation value where no alternative markets for selling were considered.

Orderly liquidation value is the most probable price for which an item would change hands if sold in the most appropriate market (i.e., most lucrative) in an orderly and properly advertised manner allowing reasonable time in which to complete the transaction. Sales occur within an open retail market in which buyers and sellers are knowledgeable and willing participants, are typically motivated, and are not under duress to act. Forced liquidation value is the most probable price an item would obtain by a seller who is under compulsion to exchange the property for cash within a market which may or may not be the most appropriate market, within a less-than-optimal marketing time, and with a less-than-optimal marketing effort—in such scenarios cash discounts of 50% or more from orderly liquidation value would commonly apply. *(Appraising Personal Property: Principles & Methodology, Maloney 2020)*

I analyzed comparable past sales in the appropriate market assuming the sales analyzed were completed by knowledgeable market participants acting without duress, at arm's length and based on an exchange of cash or its equivalent. Reasonable exposure time in the appropriate market prior to sale at its market value was assumed to be **[14-120 days].** In my analyses, I adjusted prices of comparable properties for differences in relevant characteristics, location and time frame. Confirming research, when conducted, made use of Internet websites such as **[liveauctioneers.com, eBay.com, priceminer.com, worthpoint.com and artprice.com, and on online private seller classified ads.]** Value opinions developed without the benefit of confirming research, if used, are based upon my past study and personal market observations regarding similar property types in the most appropriate market. I assumed that my value opinions without research were credible and would be confirmed if research was to be conducted. There were no known listings or

[614] Assume that the intended use as noted in the Agreement was "Sales advisory and Trust management for equitable distribution."

past sales of the subject property in the last three years. Object identification was based on readily apparent identity. No authentications were performed.

[I am a generalist appraiser with 38 years appraisal experience with most property types and all market levels.] See my professional profile that was attached to our Agreement. I may have provided the client with written notes regarding individual items that I inspected, but the client understands that this is an oral appraisal report and agrees to document the appraiser's oral identifications and values to the extent the client considers necessary by means of written notes or by an audio of video recording.

Disclosure: Value opinions without confirming research are subject to error. Any errors made will not be detected. The client agrees to accept this risk. I assume that if research was to be conducted that my value opinions would be confirmed. The client agrees to release me from liability for errors and omissions when I rely solely on my knowledge, experience and past observations for un-researched items.

Certification: The statements of fact contained in this report are true and correct. The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions. I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest with respect to the parties involved. I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding the agreement to perform this assignment. I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment. My engagement in this assignment was not contingent upon developing or reporting predetermined results. My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal. My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*. I have made a personal inspection of the property that is the subject of this report. No one provided me with significant personal property appraisal assistance.

[Appraiser's name
address
phone
email][615]

[615] This *Oral Appraisal Report Disclosure Statement* (OARDS) is based on that designed by Bill Novotny, ISA-AM (novotnyappaisal.com) and is intended to be used in conjunction with a written Appraiser-Client Agreement which is referenced. This OARDS is only a template. Be sure to edit as necessary (especially the text in bold] in order to be applicable to the assignment at hand.

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Glossary

Actual cash value (ACV) is an insurance term defined as either fair market value or replacement cost (new) less depreciation (depending on your jurisdiction). Depreciation, in this instance, typically refers to an incremental reduction in value based on age/life formulas commonly in use within the insurance and household goods moving industries. ACV is usually calculated by the adjuster based on these depreciation standards and guidelines.

Ad valorem is a Latin term meaning "according to value." In common usage, an ad valorem tax is a tax levied on property in proportion to the value of the property such as a state's business personal property tax.

Agent is a person who is authorized to act for another (the agent's principal) through employment, by contract or apparent authority. The importance is that the agent can bind the principal by contract or create liability for the principal if the agent causes injury while performing in the scope of the agency. Appraisers typically do not function as agents.

Administrator (of a decedent's estate) is one who is appointed by the court if the decedent had no will, if no executor is named in the will, or if the named executor cannot or will not serve. (See "Personal representative" and "Executor")

Alternate valuation date (AVD): for federal estate tax purposes, the executor of an estate can make an election regarding the date as of which property included in a decedent's gross estate will be valued: the date of death (the usual valuation date), or a date that is six months after the date of death (the alternate valuation date). If a stock prices plummets or the value of the decedent's art collection falls, it may be worthwhile to use the later date. Under the alternate valuation date, once the election is made, all assets and deductions must be valued as of the AVD. However, any assets which are sold or distributed after death and before the AVD is elected, must be valued as of the sale or distribution date.

Appraisal (synonymous with valuation) is defined by USPAP as *"(noun) the act or process of developing an opinion of value; an opinion of value. (adjective) of or pertaining to appraising and related functions, such as appraisal practice or appraisal services. Comment: An appraisal is numerically expressed as a specific amount, as a range of numbers, or as a relationship (e.g., not more than, not less than) to a previous value opinion or numerical benchmark (e.g., assessed value, collateral value)."*

Appraisal practice is defined by USPAP as *"valuation services performed by an individual acting as an appraiser, including but not limited to appraisal and appraisal review. Comment: Appraisal practice is provided only by appraisers, while valuation services are provided by a variety of professionals and others. The terms appraisal and appraisal review are intentionally generic and are not mutually exclusive. For example, an opinion of value may be required as part of an appraisal review assignment."*

Appraisal Report (See "Report")

Appraisal review is defined by USPAP as *"(noun) the act or process of developing an opinion about the quality of another appraiser's work (i.e., a report, part of a report, a workfile, or some combination of these), that was performed as part of an appraisal or appraisal review assignment; (adjective) of or pertaining to an opinion about the quality of another appraiser's work that was performed as part of an appraisal or appraisal review assignment."*

Appraise is to develop an opinion of value for personal property, real property, or a business enterprise or intangible property.

Appraiser is defined by USPP as *"one who is expected to perform valuation services competently and in a manner that is independent, impartial and objective."*

Appraiser's peers are defined by USPAP as *"other appraisers who have competency and experience in similar type of assignments as the one under consideration."*

Appreciable personal property is property that increases in value or price over time.

Appearance allowance is a settlement amount offered when the transit-related damage is not very severe and does not detract from the utility of the object or significantly from its appearance. Usually, repair attempts would not be successful or would be impractical. The owner keeps the item but is compensated for the damage incurred. An appearance allowance can also be offered when the repair is less than perfect.

Arm's-length transaction is one which is conducted within the open market freely and without abnormal pressures, such as collusion between buyer and seller.

Assignment is defined by USPAP as *"a valuation service that is provided by an appraiser as a consequence of an agreement with a client."*

Assignment conditions are defined by USPAP as *"assumptions, extraordinary assumptions, hypothetical conditions, laws and regulations, jurisdictional exceptions, and other conditions that affect the scope of work."* Laws include constitutions, legislative and court-made law, administrative rules, and ordinances. Regulations include rules or orders having legal force issued by an administrative agency.

Assignment elements are the six factors that characterize all appraisal assignments and that must be known by the appraiser in order to properly identify the appraisal problem. They include the identification of 1) the client and other intended users, 2) intended use of the appraisal, 3) type and definition of value to be used, 4) effective date of the appraisal, 5) the subject property and its characteristics relevant to value and marketability, and 6) any applicable assignment conditions.

Assignment results are defined by USPAP as *"An appraiser's opinions or conclusions, not limited to value, that were developed when performing an appraisal assignment, an appraisal review assignment, or a valuation service other than an appraisal or appraisal review. Comment: Physical characteristics are not assignment results."* As such, physical characteristics can be shared with other appraisers to help ensure higher quality appraisals.

Assumption is that which is "taken to be true." (See also "Extraordinary assumptions")

At the Time of the Assignment: According the ASB's Q&A of June 27, 2018, "at the time of the assignment" refers to the time period commencing with the appraiser's agreement to perform a valuation service and ending with the completion of the assignment.

Bandwagon effect. The bandwagon effect suggests that the preference for a particular good increases as the number of people buying the good increases. As more people come to believe in something, others "hop on the bandwagon" regardless of the underlying evidence. We see this effect play out in the world of collecting where "trends" or "fads" cause the masses to act

regardless of the underlying evidence. Examples are Beanie Babies and Cabbage Patch Dolls. (See "Interaction effects")

Basis of assets is the amount of the owner's investment in the property (usually what was paid it) for tax purposes. Taxpayers may be required to use the basis of property to figure the deductions for charitable contributions and casualty losses, or to figure capital gain or loss on the sale of property. (See IRS Pub. 551 *Basis of Assets.*)

Betterment is an insurance term which refers to the incremental increase in market value due to a repair or replacement which renders the property more valuable than it was prior to damage or loss.

Bias is defined by USPAP as "a preference or inclination that precludes an appraiser's impartiality, independence, or objectivity in an assignment."

Blockage is a discount applied to value to reflect the depressive effect on value caused by the sudden offering for sale of a large number of identical or very similar items at the same time.

Book value is an accounting term referring to the value of business assets shown on the balance sheet at historical cost less accrued depreciation.

Bundle of rights are all of the rights, privileges and responsibilities associated with owning a property. The bundle of rights can be shared, such as happens in the case of co-owned property. (See "Ownership rights")

Business property (a.k.a. business assets) is a non-real estate commercial asset (See "Intangible property (intangible assets)," "Personal property," and "Real property")

Business Enterprise is an entity pursuing an economic activity.

Business Equity is the interests, benefits, and rights inherent in the ownership of a business enterprise or a part thereof in any form (including, but not necessarily limited to, capital stock, partnership interests, cooperatives, sole proprietorships, options, and warrants).

Capital gain is realized if you sell something you own (for instance a home or household furnishings) for more than your basis (typically what you paid for the property). Capital gains are taxable just as are other types of income.

Capital gain property is that property which, if sold for its fair market value on the date of contribution, would have resulted in a long-term capital gain for the taxpayer. Included are most types of non-investment personal property held for longer than one year. (See "Ordinary income property")

Capitalize means to compute the present worth of an anticipated stream of income, or of an anticipated future lump-sum income.

Case law is: *"Part of common law, consisting of judgments given by higher (appellate) courts in interpreting the statutes (or the provisions of a constitution) applicable in cases brought before them. Called precedents, they are binding on all courts (within the same jurisdiction) to be followed as the law in similar cases. Over time, these precedents are recognized, affirmed, and*

enforced by the subsequent court decisions, thus continually expanding the common law." (Source: businessdictionary.com/definition/case-law.html)

Catalogue raisonné. A catalogue raisonné (French meaning "reasoned catalog") is a comprehensive list of artworks by an artist, describing the works so that they may be reliably identified by third parties. Most major artists have a catalog raisonné which collectors, dealers and appraisers can reference.

Client is defined by USPAP as *"the party or parties (i.e., individual, group, or entity) who engage an appraiser by employment or contract in a specific assignment, whether directly or through an agent."*

Comparable property is a property of the same kind as the subject property and that has value characteristics identical or sufficiently similar to the subject property as to allow comparison of the properties for valuation purposes.

Condition refers to the physical state of the property as it relates to the property being capable of giving the expected results. "Changes in condition" would include wear and tear, repairs, alterations, incompleteness, restorations, deterioration caused by inherent vice, conservation measures, etc.

Confidential information is defined by USPAP as *"information that is either: identified by the client as confidential when providing it to an appraiser and that is not available from any other source; or classified as confidential or private by applicable law or regulation."*

Conflict of interest is any situation in which an individual is in a position to exploit a professional capacity in some way for their personal benefit.

Contingent appraisal is an appraisal in which the validity of an appraiser's conclusion, opinion or analyses is dependent on the accuracy of information provided to the appraiser from other sources such as other appraisers, experts, consultants, governmental sources, lawyers, accountants, authenticators, grading services, testing facilities, or even the client.

Cost is the amount of money required to create, reproduce, replace or obtain a property; cost is either a fact or an estimate of fact; the *price* asked by a seller and paid for by the buyer becomes its *cost* to the buyer. Cost may be equal to value (this occurs when duplicate items **are** being sold within the marketplace), but cost is not synonymous with value. Cost has various meanings such as "buyer's cost" and "manufacturing cost."

Cost approach (to value) is uniquely suited to developing an opinion of replacement value for items capable of being replaced with a new property. It is a method that is also particularly useful for valuing items which are unique, one-of-a-kind or custom-made, or for which few comparable sales exist, and for which it is acceptable to be replaced with a new property. The cost approach measures worth based on the cost to acquire (through purchase or construction) an acceptable NEW substitute property and then deducting, if necessary, for all forms of depreciation existing in the subject property including physical deterioration and obsolescence. With the exception of certain types of appreciable property such as an item made by a living artist, the cost approach to value is normally applicable only to depreciable items of personal property for which replacement with a suitable NEW property is both acceptable and expected.

Cover document (See "Transmittal letter")

Cover letter is a brief, formal letter used to simply accompany an enclosed report being sent to the recipient. Not all appraisers make use of a cover letter, but on occasion you may feel it appropriate to do so. A cover letter should NOT be attached to the report as it is not part of the report. It merely accompanies the report. The cover letter can be discarded by the recipient (and often is) and doing so should have no impact on the completeness or credibility of the remaining report. Therefore, the cover letter must not contain appraisal- or item-specific information that is not also included somewhere in the report itself. (See "Transmittal letter")

Current appraisal occurs when the effective date of the appraisal is contemporaneous (around the same time as; arising, existing or occurring during the same time period) with the date of the report.

Credible is defined by USPAP as *"worthy of belief. Comment: Credible assignment results require support, by relevant evidence and logic, to the degree necessary for the intended use."* The term Credible relates to opinion development. Usage: "In my opinion, the results stated in this report are (or are not) credible."

Date of appraisal (See "Effective date")

Date of the report is the date on which the appraisal document is prepared and signed.

Date of inspection is the date(s) on which the appraiser examined the property or the client-provided information about the property.

Depreciable personal property is property that decreases in value or price over time.

Depreciation is a property's loss in value for any reason including obsolescence or due to a change in condition including physical deterioration; an incremental reduction in value based on age/life formulas commonly used within the insurance industry. In appraising, depreciation is defined as a property's loss in value from new for any reason, whether caused by intrinsic characteristics (rusting, decay, obsolescence) of the property or to factors that are external to the item (e.g., change in fads); in regards to improvements to land, such as a home or school building, depreciation is defined as the degree of deterioration and obsolescence; in accounting, depreciation is an allowance that is tied to income tax laws, and is a way to approximate the "charging to expenses" of the original cost of business assets used for more than one accounting period.

Depreciated cost new (See "Replacement cost (new) less depreciation")

Diminution of value (See "Loss-of-value")

Disclaimers and Terms of Use cover issues pertaining to certain assignment conditions and presuppositions under which the appraisal assignment was conducted and to issues relating to how the report can be used. They 1) cover assignment-relevant issues to protect the appraiser where errors or omissions might be charged or imputed, and 2) limit the use of the appraisal to those for whom its use was intended.

Distress liquidation market (See "Forced liquidation market")

Donee is the recipient of funds, donations or other benefits.

Donor is the person or entity that makes a donation or gift.

Due diligence is a concept that applies to all phases of the appraisal process—both in the development of the appraisal as well as in the reporting of the results. It is particularly applicable when dealing with issues of authentication. Courts hold professionals to higher standards of duty than it holds non-professionals. Exercising due diligence is one of those higher standards. It requires the appraiser to meet the standard of substantial evidence in all phases of the appraisal process. Substantial evidence is *"such evidence as a reasonable person might accept as adequate to support a conclusion."* (Black's Law Dictionary)

Earnings forecast is an estimate of the future net monetary returns of investment property.

Economic obsolescence is the passing out of usefulness due to external factors such as a decrease in demand (because of changes in style, vogue, or fashion), the establishment of restrictions against use or ownership, or a prohibitive increase in the cost to manufacture.

Effective date is defined by USPAP as *"the date to which an appraiser's analyses, opinions, and conclusions apply; also referred to as date of value,"* e.g., the date of loss in the case of an insurance claim, or the date of donation for noncash charitable contribution appraisals done for income tax purposes.

Endowment effect. According to the endowment effect theory, people value an object they own more than they value an identical object that they do not own. The endowment effect often results in people demanding a considerably higher price for an item they own than they would be prepared to pay in order to acquire it.

Equitable distribution is a fair division of assets between two or more entities (people or businesses); the division is based upon an agreed-upon method or may be at the direction of third-party or court.

Evaluation is the process of determining the non-monetary qualities of property that contribute to value such as quality, authenticity, or rarity. Technically, an "evaluation" is a term created by the federal banking institutions to mean something other than an appraisal. Specifically, an evaluation provides an estimate of market value of real property. When performed by one required to comply with USPAP, the opinion of value is an appraisal. See Advisory Opinion 13 *Performing Evaluations of Real Property Collateral to Conform with USPAP* for a related discussion of evaluations.

Executor or executrix (of a decedent's estate) is one named in a decedent's will to administer the estate and distribute properties as the decedent has directed. (See "Administrator" and "Personal representative")

Expert witness as used in a judicial proceeding is a person duly and regularly engaged in the practice of a profession who holds a professional degree from a university or college and has had special professional training and experience, or one possessed of special knowledge or skill about the subject upon which called to testify. Unlike a lay witness who can only testify as to what was witnessed (e.g., seen, heard, etc.), an expert witness may also offer an opinion.

Exposure time is defined by USPAP as *"an opinion, based on supporting market data, of the length of time that the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the*

appraisal." **Reasonable** exposure time is the estimated length of time the subject property would have been offered for sale before it hypothetically sold **at market value** in a competitive and open market on the effective date of the appraisal. Exposure time **precedes** the effective date of the appraisal. It is a retrospective opinion based on past events within an open and competitive market. (See "Marketing time")

Extraordinary assumption is defined by USPAP as *"an assignment-specific assumption as of the effective date regarding uncertain information used in an analysis which, if found to be false, could alter the appraiser's opinions or conclusions. Comment: Uncertain information might include physical, legal, or economic characteristics of the subject property; or conditions external to the property, such as market conditions or trends; or the integrity of data used in an analysis."*

Fair market value is a specific type of market value, is defined by a legal or regulatory jurisdiction and varies with individual jurisdictions. For federal uses such as estate and gift tax or charitable contributions, fair market value is defined by Treasury Regulation §1.170A-1(c)(2) as "The price at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of the relevant facts." Treasury Regulation §20.2031-1 elaborates on this definition by stating "The fair market value of a particular item of property includible in the decedent's gross estate is not to be determined by a forced sale price. Nor is the fair market value of an item of property to be determined by the sale price of the item in a market other than that in which such item is most commonly sold to the public, taking into account the location of the item wherever appropriate."

> Fair market value is a hypothetical value under conditions assuming reasonable knowledge by both parties, no compulsion to act, and neither buyer nor seller are under duress. But with fair market value sales must occur in the "most common market." In addition, in reality, the property will not actually be sold. Instead, title is retained by the owner and does not transfer to someone else. Assumes an open retail market.

Fair value. The International Valuation Standards Council (IVSC)defines fair value as:

> *i. The estimated price for the transfer of an asset or liability between identified knowledgeable and willing parties that reflects the respective interests of those parties. For use in financial reporting under* International Financial Reporting Standards (IFRS)*, fair value has a different meaning:*
>
> *ii. In IFRS 13 "Fair Value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date."*

Forced liquidation market is any market in which property is sold quickly, within a very restricted time frame, with insufficient marketing time, without the freedom to consider exposure or price and, often, without regard to the most appropriate marketplace or to alternative marketplaces.

Forced liquidation value: For **personal property**, the most likely amount (expressed in terms of money) an item would obtain by a seller who, because of a sense of immediacy, is under compulsion to exchange the property for cash within a market which may or may not be the most appropriate market (i.e., the most lucrative market), within a less-than-optimal marketing time, and with a less-than-optimal marketing effort. Forced liquidation assumes a wholesale market in which wholesale purchasers participate.

Forced liquidation value for **business assets** is the most likely amount (expressed in terms of money) realized when assets are sold piecemeal and under duress at public auction after being advertised in a manner considered to be commercially reasonable. Forced liquidation value assumes that the buyer is responsible for all costs of removal and is purchasing the property “as is, where is” with no warranties or representations as to the condition of the property being made by the seller.

Fractional appraisal is an appraisal of one component or legal interest of the whole property. It is an appraisal in which a value estimate is made on one of the component parts or a percentage of an item with or without regard to the effect of the component's separation from the whole. An example would be the appraisal of restaurant fixtures and equipment (F & E) as opposed to the restaurant building and land. An appraisal of the F & E is a fractional appraisal of the restaurant as a going concern business.

Fractional interest is a partial interest in a property. In personal property, co-ownership represents fractional interests. In real estate the divided interests of the owner, lessee, mortgagee, easement holder, etc. represent fractional interests. If the property remains a whole property without division (such as a painting), the fractional interest is referred to as an **undivided fractional interest**.

Functional obsolescence is the passing out of usefulness due to the inability of the item to produce the desired results (due to inadequacy, unattractive style, poor or inefficient design, etc.) and to the availability of a new replacement capable of achieving the same results. The old and the new items must be of comparable design and category.

Going concern is an operating business enterprise that is expected to continue in operation.

Going concern value is the value of an operating business enterprise. Goodwill is an integral component of going concern value.

Goodwill is an intangible business asset category usually composed of elements such as name or franchise reputation, customer patronage, location, mailing lists, products, and similar factors.

Goodwill allowance is a term used in the claims industry to describe a payment made to the shipper (or insured) which compensates for what the industry considers to be only a perceived loss, damage or inconvenience, but which the shipper (or insured) feels to be a real loss, damage or inconvenience. To placate the insured (or shipper) the insurance company (or moving company) could authorize an allowance be paid as a gesture of goodwill.

Gross proceeds of a sale equals the total proceeds realized from the sale before subtracting costs associated with the sale such as auctioneer's commission, hauling, advertising, taxes, post-sale clean-up, etc.

Highest and best use is that reasonable and legal use of a property that will result in its greatest value. The principle of highest and best use recognizes the need to consider the item's ultimate use as well as the most appropriate marketplace which, taken together, results in the highest value for the property under consideration. For personal property, highest and best use equates to the choice of the appropriate (i.e., most lucrative) market of market level for the type of item, the type and definition of value, and intended use of the appraisal.

Historical cost is the cost of the item when it was first placed in service; also known as base price. (See "Original cost")

Hypothetical appraisal is an appraisal in which the appraiser's opinions or conclusions are based on hypothetical conditions. Note that a hypothetical appraisal is **not** (as had been taught in the past) defined as an appraisal in which the appraiser did not personally inspect the property.

Hypothetical condition is defined by USPAP as *"a condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results, but is used for the purpose of analysis. Comment: Hypothetical conditions are contrary to known facts about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis."*

Income approach is a valuation approach that estimates the investment value of an income-producing property through capitalization of the net income that is expected to be produced by the property during its remaining useful life.

Inherent vice is defined as an intrinsic characteristic of an object, material or property that results in its tending to deteriorate or destroy itself. These hidden or latent defects over time or when combined with the ambient conditions of humidity, temperature, light and gravity, contribute to the property damaging itself. The loss is caused by the inherent nature of the thing insured and not the result of a casualty or of an external cause.

Insurable value: In the insurance industry, insurable value is used to denote the cost of replacing the existing real estate improvements on a site should they be destroyed (i.e., the cost new of destructible improvements to a property.) It is the value for which the property is insured after deducting the value of the land. (Land is always considered indestructible**.)**

Intangible property (intangible assets) is defined by USPAP as *"nonphysical assets, including but not limited to franchises, trademarks, patents, copyrights, goodwill, equities, securities, and contracts as distinguished from physical assets such as facilities and equipment."* (See "Business property")

Intended use is defined by USPAP as *"the use(s) of an appraiser's reported appraisal or appraisal review assignment results, as identified by the appraiser based on communication with the client at the time of the assignment."* The intended use is identified by the client at the time of the assignment. Examples of intended uses include for selling property, divorce, acquiring insurance coverage, charitable contribution, bankruptcy or estate tax.

Intended user is defined by USPAP as *"the client and any other party as identified, by name or type, as users of the appraisal or appraisal review report by the appraiser, based on communication with the client at the time of the assignment."*

Interaction effects are a classification of theoretically possible marketplace anomalies which refer not to what will happen to demand as price changes, i.e., the law of supply and demand. Rather, interaction effects refer only to propensities or preferences to purchase. Normally, demand theory assumes that preferences are dependent on supply, asking price and the degree to which a good will satisfy a particular need or usefulness. But interaction effects instead assume that purchase preferences can be independent of the law of supply and demand. Three examples

of interaction effects are the Veblen effect, the snob effect, and the bandwagon effect. (See "Bandwagon effect," "Snob effect," "Veblen effect" and "Endowment effect".)

International Valuation Standards Council (IVSC) (ivsc.org) is a London-based independent, not-for-profit, private sector organization established as an international standard setting organization with as its goals the development and maintenance of standards (it publishes the *International Valuation Standards*) for the reporting and disclosure of "valuations"— in particular those valuations that will be relied upon by investors and other third-party stakeholders for many types of assets, including real estate, plant and equipment, intangible assets and businesses, and for different applications such as accounting, financial reporting and bank lending.

Investment property is property expected to generate income in the form of either a stream of monetary returns or as a one-time future sale at which time a profit is anticipated. Investment property has primarily investment value, but could also have market value and owner value.

Investment value is the current worth (of an investment property) that is the equivalent of payments or a stream of payments to be received at various times in the future. The investment value will vary with the discount interest factor applied to future payments. Investment value represents a series of future cash flows expressed in today's dollars. Investment value is based on the present worth of the property. (See "Present worth")

Irreplaceable property is that property for which a duplicate or suitable equivalent cannot be either purchased or reproduced. Examples include an artist's original oil painting, or JFK's golf bag, or the Hope Diamond. While a similar item might be found, it can never be suitably equivalent as characteristics of provenance, antiquity or authorship cannot be duplicated with any replacement property.

Jurisdictional exception is defined by USPAP as *"an assignment condition established by applicable law or regulation, which precludes an appraiser from complying with a part of USPAP."* If any section of USPAP is contrary to applicable laws or regulations, then the appraiser is excused from complying with that section of USPAP. Jurisdictional exceptions preserve the balance of USPAP if one or more of its parts is in conflict with local laws or ordinances. Jurisdictional exceptions must be disclosed in the report. Jurisdictional exceptions rarely impact the personal property appraiser.

Lessee is the leaseholder, the one who rents the property, the tenant.

Lessor is one who grants a lease, the owner of the property, the proprietor.

Levels of trade. There are four marketplaces the appraiser may have occasion to research: retail market, wholesale market, orderly liquidation market, and forced liquidation market. These are referred to as levels of trade. This term refers to a merchandising structure characterized by different trading levels having different price points at which the merchandise is bought and sold, so each level of trade generates its own set of data. The primary differences between these four levels of trade are the market participants (i.e., end user vs. re-seller) and the time frame available for transactions to occur (e.g., no time limit such as a retail store, nominal time frame such as an estate auction, very limited time frame such as a forced-sale). (See "Market levels")

Limiting conditions are circumstances or conditions that could affect the appraisal development process and, possibly, the appraiser's opinions, analyses or conclusions. Limiting conditions are

often brought about when the property is not available for personal inspection by the appraiser, by adverse ambient conditions such as the unavailability of electrical power to test appliances and electronic equipment, or by insufficient time or funding.

Liquidation value is most often considered to be the value-in-place of property from a failed business that is scheduled to be sold intact as of a specific date within a limited time fame in order to satisfy creditors. But for personal property, liquidation value represents the amount of money that would typically be obtained when converting any property to cash for any reason within a defined time period. Orderly liquidation value assumes adequate time to prepare for and/or advertise the sale. Forced liquidation value assumes inadequate time is allowed to properly prepare and/or advertise the sale. (See “Orderly liquidation value” and “Forced liquidation value”)

Loss-of-value is the degree to which an item has lost fair market value because of damage and subsequent professional repair/restoration. The loss-of-value of an item equals the difference in fair market value of the property prior to damage and the fair market value of the property after damage has been repaired.

Market analysis is the study of market conditions for a specific type of property. For personal property, there may be more than one market which would require analysis. This might occur if the subject property is bought and sold within more than one marketplace, such as an item that can be found in both the retail as well as the wholesale market.

Market level. Within a specific level of trade exist differing market levels, i.e., examples of the market, which often offer the same product for a different price - thus appealing to different classes of buyers. For instance, as examples of market levels within the retail market for an appraisal being done for acquiring insurance coverage, there are upscale department stores offering goods at full manufacturer's suggested retail price (MSRP), and then there are retail discount stores which offer the same merchandise for less. In a similar manner, there are various market levels for the forced liquidation level of trade. Depending on several factors including the amount of time available to expose the property to the marketplace, examples of the forced liquidation level of trade could include auctions, yard sales, estate (tag) sales, online auctions, sale to a dealer. (See “Levels of trade”)

Market value is defined by USPAP as *“a type of value, stated as an opinion, that presumes the transfer of a property (i.e., a right of ownership or a bundle of such rights), as of a certain date, under specific conditions set forth in the value definition of the term that is identified by the appraiser as applicable in an appraisal.”* Market value is a general concept defined as an opinion of the most probable buy-sell price, i.e., the probable amount of money a buyer would pay and a seller would accept for an item of property under specific conditions which typically include (1) the relationship, level of knowledge, and motivation of seller and buyer, (2) the terms of sale (cash vs. cash equivalent), and (3) the condition of sale (e.g., exposure in the most appropriate marketplace for a reasonable time prior to sale). Appraisers are required to identify the exact definition of market value, and its source, whenever performing an appraisal with an opinion of market value as its purpose.

Marketable cash value is the anticipated net proceeds from the orderly sale of a property once all costs associated with the sale are subtracted. Expenses associated with a sale might include advertising, auctioneer or broker's commission, transportation costs, photography costs, trash removal after an on-site auction, etc.

Marketable non-investment property is that saleable property which is held without the expectation of earning income; has primarily market value but also owner value; does not have investment value. Most personal property appraisers encounter is marketable non-investment property.

Marketing time is an opinion of the amount of time it might take to sell a property at **a given market value** during the period immediately following the effective date of an appraisal. (See "Exposure time")

Mass appraisal is defined by USPAP as *"the process of valuing a universe of properties as of a given date using standard methodology, employing common data, and allowing for statistical testing;"* seldom used by the personal property appraiser.

Mean (or **average**) is a statistical term of central value tendency which refers to the statistical average of the observations calculated by dividing the sample total summation by the number of samples.

Misleading is defined by USPAP as *"Intentionally or unintentionally misrepresenting, misstating, or concealing relevant facts or conclusions."* The term Misleading relates to reporting of assignment results. Usage: "In my opinion, the report under review was communicated to the client in a misleading manner."

Net proceeds from a sale equals the gross proceeds from a sale less costs associated with the sale such as auctioneer's commission, hauling, advertising, taxes, etc.

Net value is a term commonly used in equitable distribution proceedings (divorce, business dissolution, estate division) to indicate the market value of property less any encumbrances (such as liens or debt), expected selling commissions, and other costs which would serve to reduce the property's value.

Non-investment property is property owned without the anticipation of income. Personal household property is non-investment property.

Non-marketable non-investment property is property which is non-marketable and which is not held with the expectation of earning income. It has only owner value but not market value or investment value. Examples in real property include a church, library or school. Personal property examples include contraband items such as artifacts taken from Native American grave sites, or those items made from parts of an American bald eagle or other endangered species of flora or fauna.

Objective of an appraisal (See "Purpose of an appraisal")

Objective of an appraisal review (See "Purpose of an appraisal review")

Obsolescence is the passing out of usefulness due to there existing a functionally or technologically newer or better replacement, or because of a decrease in demand due to changes in style, fashion, or public perception. Eventually the property is considered obsolete and is retired from use.

Online appraisals are electronically-transmitted personal property Internet appraisal reports based on client- or third-party provided digital images and written descriptions. The uses of

online Internet appraisals are valid in situations in which the use of photographs have traditionally been considered a typical appraisal practice.

Oral reports, like written reports, transmit assignment results to the client upon completion of an assignment—only with oral reports the results are transmitted verbally as opposed to being in written form. Oral appraisal reports may be required in court testimony, at "Heirloom Discovery Days" venues, for a sales advisory assignment, for equitable distribution, or during private discussions with an attorney who may not wish that there be anything put in writing. USPAP SR 8-4 *Oral Appraisal Report* contains guidance regarding oral appraisal reports. It states that, to the extent that it is both possible and appropriate, oral appraisal reports must address the substantive matters of an Appraisal Report as set forth in USPAP SR 8-2(a).

Orderly liquidation market is the market in which property is regularly sold in an orderly and well-advertised fashion but for which nominal time constraints apply. Examples are auction galleries, on-site auctions, consignment shops, and estate tag sales.

Orderly liquidation value (for personal property) is the most probable price for which an item would change hands if sold in the most appropriate market (i.e., the most lucrative market) in an orderly and properly advertised manner (either through a negotiated sale or through an auction), and allowing a reasonable amount of time in which to complete the transaction. It is assumed that sales occur within an open retail market in which buyers and sellers are knowledgeable and willing participants, are typically motivated, and are not under duress to act.

- For assets of a defunct business, orderly liquidation value is the value realized when assets are sold piecemeal, through negotiation, over a predetermined period of time (often three to six months). Orderly liquidation value for defunct business assets assumes that the buyer is responsible for all removal costs and is purchasing the assets "as is, where is" with no warrantees or representations as to the condition of the assets being made by the seller. It is further assumed that the assets are properly advertised in a manner considered to be commercially reasonable. The would-be buyer and seller of business assets further acknowledge that if an acceptable price cannot be negotiated within the time period specified the final option would be to offer the assets for sale at public auction.

Ordinary income property is property which, if sold on the date of donation, would have resulted in either ordinary income or in a short-term capital gain. Examples of the former include works of art created by the donor, and dealer stock. An example of the later includes personal property held for less than one year. (See "Capital gain property")

Original cost is the cost of acquisition to the current owner. (See "Historical cost")

Owner value (a.k.a. functional value) recognizes the non-monetary satisfactions the owner enjoys as a result of owning the property. Owner value cannot be measured as it is perceived and in the mind of the owner. Owner value may be more than fair market value or replacement cost if the owner perceives it as such, e.g., because of "sentimental" value. The value an owner places on personal property may be higher than the price he or she might get for the property by sale.

Ownership rights are defined as the right to own, use, consume, transfer title, sell, etc. property. (See "Bundle of rights")

Personal inspection is defined by USPAP as *"a physical observation performed to assist in identifying relevant property characteristics in a valuation service. Comment: An appraiser's*

inspection is typically limited to those things readily observable without the use of special testing or equipment. Appraisals of some types of property, such as gems and jewelry, may require the use of specialized equipment. An inspection by an appraiser is not the equivalent of an inspection by an inspection professional (e.g., a structural engineer, home inspector, or art conservator).”

Personal property is defined by USPAP as *“any tangible or intangible article that is subject to ownership and not classified as real property, including identifiable tangible objects that are considered by the general public as being “personal,” such as furnishings, artwork, antiques, gems and jewelry, collectibles, machinery and equipment; and intangible property that is created and stored electronically such as plans for installation art, choreography, emails, or designs for digital tokens.”* (See “Business property” and “Real Property”)

Personal representative (of a decedent's estate) is an executor, administrator, or anyone who is legally in charge of the decedent's property. (See “Administrator” and “Executor”)

Physical characteristics are defined by USPAP as *“attributes of a property that are observable or measurable as a matter of fact, as distinguished from opinions and conclusions, which are the result of some level of analysis or judgment.”*

Pre-existing damage (PED) is a term encountered when conducting an insurance casualty loss or a transit-related damage claims appraisal. It is damage, wear and tear, earlier repairs, or other change from “like-new” condition which existed prior to a household goods move or prior to the date of a casualty loss.

Present value (See “Present worth”)

Present worth is an accounting term which represents the current amount, in terms of dollars, that would be the equivalent of income generated by the sale of property at some point in the future or of the stream of income generated by leasing property for a specified amount of time. Present worth forms the basis for investment value. (See “Investment value”)

Price is defined by USPAP as *“the amount asked, offered, or paid for a property. Comment: Once stated, price is a fact, whether it is publicly disclosed or retained in private. Because of the financial capabilities, motivations, or special interests of a given buyer or seller, the price paid for a property may or may not have any relation to the value that might be ascribed to that property by others;”* most commonly thought of as the amount of money being asked for a property being offered for sale.

Primary market is one in which new items that are still being created by the manufacturer are available for sale for the first time. As an example, a primary market for Hummel figurines is a gift shop that carries new Hummels which are currently in production. (See “Secondary market”)

Production cost (See “Replacement cost (new-reproduction)” and “Replacement value (new-reproduction”)

Property. When valuing an item or when estimating its present worth, the term property means the **rights** an owner of that property anticipates to accrue by virtue of ownership. However, when estimating an item's replacement value, the term property refers to the **item itself** without regard to ownership.

Prospective appraisal is one in which the effective date of the appraisal occurs after the date of the report.

Provenance reflects the place of origin and history of the property including such factors as its past ownership, exhibitions showing the item, literature mentioning the particular property, etc.

Purpose of an appraisal is what the appraiser has been asked to determine; what the appraiser is seeking; for appraisal assignments, the purpose corresponds to the type of value identified by the appraiser as appropriate for that particular assignment. Examples of appraisal purposes include determining market value, estimating replacement value based on replacement cost, and calculating present worth.

Purpose of an appraisal review is to develop and communicate an opinion about the quality of another appraiser's work, i.e., a determination whether or not the appraisal under review is consistent with the requirements of the engagement letter which sets forth the scope of the appraisal assignment.

Qualifying charitable organization is a charitable organization that is exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code; normally organized for one of the following purposes: charitable, religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition, or prevention of cruelty to children or animals. To qualify, the organization must be a corporation, community chest, fund, or foundation. Taxpayers may be allowed to deduct the fair market value of noncash charitable contributions but only if made to a qualifying charitable organization.

Reasonable time. (1) In regards to market value, reasonable time is a sufficient duration of time so that neither the seller nor the buyer is under compulsion to act. The concept of market value assumes that a reasonable time is available in which the transaction can occur. Time allowances are made for such necessities as transporting, cleaning, repair, advertising, and conducting the sale in an orderly fashion. (2) In regards to insurance and replacing lost or damaged property, reasonable time is that amount of time reasonably needed by the insured acting as a prudent purchaser to obtain a replacement property from the marketplace in which he or she normally makes purchases.

Real estate is defined by USPAP as *"an identified parcel or tract of land, including improvements, if any."*

Real property is defined by USPAP as *"the interests, benefits, and rights inherent in the ownership of real estate."* (See "Personal property" and "Business property")

Related-use as it applies to noncash charitable contributions refers to property which is related in some fashion to the mission of the qualifying donee organization.

Relative ranking (See "Value ranking")

Relevant characteristics are defined by USPAP as *"features that may affect a property's value or marketability such as legal, economic, or physical characteristics."*

Replaceable property is that property that can be replaced by purchase or reproduction of another property that is 1) either identical, or 2) that is considered a suitable equivalent.

Replacement cost, in general, is an insurance term used to mean the total buyer's cost required to obtain an item of personal property (through purchase or construction as the case may be) to replace an insured property that was lost, damaged or destroyed. The replacement property should be of like kind and have similar characteristics such as age, authorship and condition, etc. as the damaged or destroyed property. Replacement cost could take into consideration possible additional costs which might be incurred such as sales taxes, engaging an interior designer, shipping, etc. Depending on the type of insured property, replacement could be with either a new property or a comparable property. Replacement cost forms the basis for a replacement value opinion. An estimate of replacement cost is not an appraisal (2020-2021 USPAP FAQ #367).

Replacement cost (new) less depreciation is defined as the present cost of replacing the subject property with a **new** item, less a proper deduction for depreciation, if any. Often referred to as **depreciated cost new.**

Replacement cost (comparable). For items not capable of being replaced with a new property, replacement cost (comparable) is the total buyer's cost necessary to replace (through purchase) the item being appraised with a comparable item of property of like kind, age, quality, and utility having similar wear and tear, obsolescence, and characteristics relevant to value and marketability as the item being appraised. Replacement cost (comparable) is useful as the basis for a developed opinion of replacement value (comparable) of items not capable of being replaced with a new property such as antiques, collectibles, or works of art by a deceased artist.

Replacement cost (new). For items capable of being replaced with a new property, replacement cost (new) is the total buyer's cost necessary to replace (through purchase) the item being appraised with a brand-new item of like kind, quality and utility or with a new upgraded item if the original model is out of production. This definition assumes that a suitable new substitute (or the upgraded model) can be found for the property being appraised. Replacement cost (new) is useful as the basis for a developed opinion of replacement value (new) of properties for which exact or suitably-acceptable new substitutes can be obtained new. In other words, it is used for items that are still being manufactured and/or are still available new on the open market. Examples include general household contents such as lawn mowers, TVs, and sterling silver flatware, china or crystal in patterns that are still being manufactured.

Replacement cost (new-reproduction) is defined as the total buyer's cost to construct a new, exact replica (or suitable substitute which is referred to as replacement cost (new-production)) using the same (or similar) materials and construction techniques as the original by a qualified artist or craftsperson. Replacement cost (new-reproduction) is useful as the basis for a developed opinion of replacement value (new-reproduction) for items which cannot be replaced with a ready-made, new item but for which a replacement with a newly-constructed property is possible and acceptable. An example might include the cost for the original artist to reproduce a contemporary family portrait recently destroyed in a fire, or the buyer's cost to replace a wall unit that is to be made by a qualified, yet not the original, cabinetmaker.

Replacement value, in general, is defined as the worth of a property based on the amount of money one would have to pay to replace the property (through purchase or construction, and with a new or comparable item as the property type warrants) within a reasonable amount of time and from within the relevant market ("relevant market" is that market in which the owner of the property customarily shops such as local retail stores, online, etc.) with a property of like kind, quality, origin and utility as the property being replaced. The method for determining a property's replacement value is by first estimating the cost of replacing it, i.e., by estimating its **replacement cost**.

Replacement value (comparable) is the worth of an item based on the amount of money necessary to obtain a comparable substitute property that would provide the same enjoyment, usefulness and other rights of ownership as did the subject property. Replacement **value** (comparable) is based on the substitute property's replacement **cost** (comparable).

Replacement value (new) is the worth of an item based on the amount of money necessary to obtain (through purchase) a new substitute property that would provide the same enjoyment, usefulness and other rights of ownership as did the subject property. Replacement **value** (new) is based on the substitute property's replacement **cost** (new).

Replacement value (new-reproduction) is the worth of an item based on the amount of money necessary to obtain (through construction) a new substitute property that would provide the same enjoyment, and other rights as did the subject property. Replacement **value** (new-reproduction) is based on the substitute property's replacement **cost** (new-reproduction).

A **Report** is defined by USPAP as *any communication, written or oral, of an appraisal or appraisal review that is transmitted to the client or a party authorized by the client upon completion of an assignment.*

Most reports are written and most clients require written reports, though there are many intended uses for appraisals for which oral reports would suffice. Oral reports may be required in court testimony or during "Heirloom Discovery Day" venues.

- The **Appraisal Report** option is used when there are intended users other than the client. All relevant information is **summarized** in the report to the degree required by the intended use of the report and the needs of the client and any other intended users, if any. For a personal property appraisal, this report option is prepared in accordance with USPAP Standards Rule 8-2(a) (content of an Appraisal Report).

- A **Restricted Appraisal Report** can be provided when the intended users do not include parties other than the client. The appraiser need only **state** the relevant information with the details maintained in the assignment client workfile. For a personal property appraisal, this report option is prepared in accordance with USPAP Standards Rule 8-2(b) (content of a Restricted Appraisal Report).

Reproduction cost (See "Replacement cost (new-reproduction)")

Restricted Appraisal Report (See "Report")

Retail market is the market in which items are sold at retail, i.e., to the end consumer who is not intent on reselling the items. Examples include discount stores, antique shops, art galleries, jewelry stores, department stores, etc. when sales are made to the end consumer.

Retail price is the price the ultimate consumer, i.e., the end-user or the public, pays for an item in the retail market.

Retrospective appraisals provide opinions of value as of an effective date which is prior to the date of the report. A retrospective appraisal mentally goes back in time to the effective date and applies data as of that earlier date and not after.

Reversionary value is the value remaining in an investment property after a specified number of returns have been received.

Sales comparison approach is a valuation approach that bases a subject property's value on market data including the selling price of identical or similar (comparable) properties that have recently sold or on the asking prices of identical or comparable items currently being offered for sale.

Salvage value is an opinion of the amount that would be realized for the whole property or a component of the whole property that is retired (perhaps because of obsolescence or damage) from service and for which refurbishing or repair is neither desired, possible or economically feasible, i.e., the cost to do so would exceed the item's worth; assumes a market in which typical buyers of salvage participate.

Scrap value is an opinion of the amount that could be realized for the property if it were sold for its intrinsically valuable material content and not for a productive use (e.g., the gold content in damaged jewelry); assumes a market in which typical buyers of scrap participate.

Scope of work is defined by USPAP as *"the type and extent of research and analyses in an appraisal or appraisal review assignment."* Scope of work (which must be sufficient to result in credible assignment results) includes, but is not limited to, the following:

- The degree to which the property is inspected and identified
- The extent of research into physical or economic factors that could affect the property
- The extent of data research
- The type and extent of analysis applied to arrive at opinions or conclusions

Secondary market is one in which items that are still being created by the manufacturer are being resold. An example of a secondary market for Hummel figurines is an estate auction or a yard sale at which Hummels that are still in production are being resold a second, third or more time. When the item is no longer being created by the manufacturer, the secondary market becomes the primary market. (See "Primary market")

Service property (See "Non-marketable non-investment property")

Signature is defined by USPAP as *"personalized evidence indicating authentication of the work performed by the appraiser and the acceptance of the responsibility for content, analyses, and the conclusions in the report."* A signature can be represented by a hand-written mark or a digitized image where the appraiser has sole personalized control of affixing the signature. Every appraisal must contain a signed USPAP certification. The appraiser may sign other sections of the appraisal report, but, at a minimum, every appraisal must contain a signed USPAP certification. Note that the signature does not have to be specifically appended to the certification; however, the signature must reflect the appraiser's embrace of the certification. The certification, for instance, could be embedded in the transmittal letter. The transmittal letter, then, would be signed by the appraiser at the end in typical business letter style.

Significant appraisal assistance in an appraisal or appraisal review assignment is appraisal-related help, provided by another appraiser, that is substantial enough to have affected the development of the assignment results.

Similar property (as used in connection with noncash charitable contributions) means property of the same generic category or type, such as stamp collections, coin collections, lithographs, paintings, photographs, books, furniture, etc.

Snob Effect. The snob effect suggests that the demand for certain goods decreases as the number of people who own one of that particular good increases. In other words, the lower the number of people who own a particular good, the greater the desirability of that good. This is because people tend to associate an object of very limited availability with social and financial status, prestige and exclusivity. The fewer the number of people who are able to own a particular object, the more exclusive and prestigious that object is perceived to be. (See "Interaction effects")

To **State** is to present an opinion, conclusion or analysis in a report without the inclusion in the report of supporting rationale. (See "Summarize")

Substantial evidence is "*such evidence as a reasonable mind might accept as adequate to support a conclusion*" (Black's Law Dictionary). Substantial evidence must be free of bias or personal interests whether financial or emotional.

Substantive matters (as mentioned in USPAP SR 8-4) are matters of major or practical importance to all concerned.

Summarize is to present an opinion, conclusion or analysis in a report along with supporting rationale. (See "State")

Tangible property is property that can be seen or touched.

Technological obsolescence is the passing out of usefulness due to the ability to duplicate the same results with a new replacement using new technology and modern manufacturing materials and techniques.

Terms of Use (See "Disclaimers and Terms of Use")

Tort *is "any wrongful act, damage, or injury done willfully, negligently, or in circumstances involving strict liability (but not involving breach of contract) for which a civil suit can be brought,"* (Webster's). Malpractice and fraud are examples of torts.

Transmittal letter. All appraisals must make use of a transmittal letter. (Some may refer to it as a "cover document." Whatever you decide to call it, you must use one.) The transmittal letter contains the required appraisal-specific information and is an integral part of the report. (See "Cover letter")

Treasury Regulation §1.170A (pertains to federal income tax charitable deductions)

- §1.170A-1(c)(1) provides that if a charitable contribution is made in property other than money, the amount of the contribution is generally the fair market value of the property at the time of the contribution.
- §1.170A-1(c)(2) defines fair market value as the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts.
- §1.170A-13 sets forth the recordkeeping and return requirements for deductions for charitable contributions. For a deduction for a charitable contribution of property in

excess of $5,000, §1.170A-13(c)(4) requires a qualified appraisal and an appraisal summary (IRS Form 8283, Section B) be used by the taxpayer.
- §1.170A-16. Sets forth substantiation and reporting requirements for all noncash charitable contributions.
- §1.170A-17 sets forth the definitions of qualified appraiser (§1.170A-17(b)) and qualified appraisal (§1.170A-17(a)).
- §1.170A-18 prohibits deductions for contributions of clothing or household goods that are in less than good condition. Requires qualified appraisal for such items if in less than good condition and are valued in excess of $500.

Treasury Regulation §20.2031 (pertains to federal estate tax)

- §20.2031 provides that the value of the gross estate of a decedent is determined by including the value at the time of death of all property wherever situated.
- §20.2031-1(b) provides that the value of property includible in a decedent's gross estate is its fair market value at the time of the decedent's death.
- §20.2031-6(a) provides that the fair market value of a decedent's household and personal effects is the price that a willing buyer would pay to a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of the relevant facts.
- §20.2031-6(b) provides that if there are included among the household and personal effects articles having marked artistic or intrinsic value of a total in excess of $3,000, the appraisal of an expert or experts, under oath, must be filed with the estate tax return.
- §20.2031-6(d) provides that if, pursuant to §20.2031-6 (a) and (b), expert appraisers are employed, care must be taken to see that they are reputable and of recognized competency to appraise the particular class of property involved. In listing paintings having artistic value, the size, subject, and artist's name must be stated.
- §20.2032-1(a) provides that the executor may elect to determine the value of all the property included in the gross estate as of 6 months after the decedent's death. However, property distributed, sold, exchanged, or otherwise disposed of within 6 months after death must be valued as of the date of distribution, sale, exchange, or other disposition.

United States Tax Court is a federal court that handles disputes involving income, estate, gift, and other tax liability issues. Taxpayers who cannot reach an agreement with the Internal Revenue Service may petition the U.S. Tax Court. The court has offices in Washington, D.C., but it holds sessions at locations throughout the country for the convenience of taxpayers.

USPAP is an acronym for the *Uniform Standards of Professional Appraisal Practice* as promulgated by The Appraisal Foundation of Washington, DC.

Valuation (synonymous with appraisal) is the act of determining the monetary worth of the rights encompassed in ownership as of a particular date and within a specified market.

Valuation Section of a report. Unless combined with the transmittal letter, all written appraisal reports must make use of a Valuation Section. (Some may refer to it as a "body of the report.") The Valuation Section of a report contains the required item-specific information (such as quantity, description, condition, value, etc.) and is an integral part of the report.

Valuation services is defined by USPAP as *"a service pertaining to an aspect of property value, regardless of the type of service and whether it is performed by appraisers or by others."* (See "Appraisal practice")

Value is *"the monetary relationship between properties and those who buy, sell, or use those properties, expressed as an opinion of the worth of a property at a given time. Comment: In appraisal practice, value will always be qualified - for example, market value, liquidation value, or investment value."* Value expresses an economic concept. As such, it is never a fact but always an opinion of the worth of a property at a given time in accordance with a specific definition of value.

Value characteristics are qualities, attributes, features or aspects which, in the eyes of the interested parties, add to or detract from value. Examples include quality of construction, age, authorship, country of origin, aesthetic qualities, subject matter, materials, etc.

Value-in-exchange is the amount of money the property would bring if sold. Value-in-exchange is normally less than the original purchase price for depreciable property such as an everyday sofa, but it could be more than the original purchase price for appreciable property such as an antique or a work of art. The concept of value-in-exchange is basic to the definition of market value.

Value-in-place is the value of business assets taking into consideration the extent to which the property contributes to the success of an enterprise. Value-in-place recognizes a "premium" in value over the property's value if it were not "in place" and making the contribution.

Value-in-use is the value of personal property taking into consideration the extent to which the property contributes to the personal needs, satisfactions or requirements of the owner; may take sentimental value into consideration.

Value ranking is a concept which declares that the value of a property is relative to the position in which its value characteristics are ranked against the value characteristics of properties with which it is being compared. The subject property is placed in the ranks according to how it compares. Its value, then, lies between the values of those comparable properties by which it is flanked.

Veblen Effect. In economics, Veblen goods are a theoretical group of commodities for which peoples' preference for buying them increases as a direct function of their price, instead of reacting according to the law of demand. It is claimed that some types of high-status goods, such as diamonds, fine art or luxury cars, are Veblen goods, in that decreasing their prices decreases people's preference for buying them because they are no longer perceived as exclusive or high-status products. Similarly, a price increase may increase that high status and perception of exclusivity, thereby making the good even more preferable. (See "Interaction effects")

Voir dire is a hearing held during a trial on the acceptability of a juror, on admissibility of contested evidence, or the acceptability of one being offered as an expert witness.

Wholesale market is the market in which wholesalers can sell to the trade and dealers can buy for resale to the public.

Workfile is defined by USPAP as *"data, information, and documentation necessary to support the appraiser's opinions and conclusions and to show compliance with USPAP."*

Index

—$—

$250, donation valued over
Taxpayer must keep records 206
$500, donation valued under..... 206
$500-$5,000, donation valued between
Taxpayer uses IRS Form 8283 Sec. A..... 206
$5,000, donation valued over
Taxpayer uses IRS Form 8283 Sec. B 207
$20,000, donated art valued over
Attach appraisal report to tax return.....223, 225
IRS guidance regarding photographing 650
Taxpayer submit color images 225
$50,000, donated art valued over
Appraisal report must include cost, date, manner of acquisition 221
IRS guidance regarding identification of..223, 225, 521, 649
Referred to Art Appraisal Services 227
$150,000, donated art valued over
Referred to Art Advisory Panel 227
Taxpayer can request Statement of Value..... 226
$500,000, donated property valued over
Attach appraisal report to tax return..... 227

—§—

§6695A IRS Penalty.....209, 210, 214, 535

—A—

Accelerated Depreciation 262
vs. straight-line depreciation..... 261
Accepting the Assignment..... 401
Accrued Depreciation.....163, 166, 259, 263
Caused by obsolescence 263
Caused by physical deterioration 263
Accumulations, how to describe 483
Acquisition Cost
Definition of..... 250
Acquisition Cost, Date, Source (taxpayers)
When to include in donation appraisal report ... 224
Acquisition Cost, Date, Source (taxpayers)
When to include in donation appraisal report ... 220
Actual Cash Value (ACV)..... 29, 106, 120, 185, 189
Definition varies 106, 189
State of California..... 189
State of New York 189
State-by-state method of calculating 106
Actual Cash Value Insurance Policy 185
Actual Possession vs. Constructive Possession..... 218
Ad Valorem Property Tax Appraisals 249, 392
Addenda to the Report... 505, 509, See also Enclosures to the Report
Additional Obligations of USPAP ... 417, See USPAP: Additional obligations of; see also USPAP: General obligations of
Adequate Marketing Effort..... 85
Adjusted Basis of Property.....237
Advertising, misrepresentations in.....444
African Elephant Conservation Act 588
After Death Discounts 303
Tax court cases..... 303, 581
Age-Life Depreciation 260
Agreed Value Insurance Policy 192
Agreement for an Oral Opinion of Value 123, 415, 648
Agreements of Sale, must be analyzed.....388
ALDG (Allowance List Depreciation Guide).....109
Allowance List Depreciation Guide (ALDG).....109
Alternate Valuation Date 233, 271
Alternative Markets..... 144, 267, 316, 449
Ambient Conditions..... 178, 179
American Moving & Storage Association.....108
Analyzing Market Data.....455
Anselmo v. Commissioner.....91, 94, 200, 575
Anticipation, principle of 313
Antiquities Act of 1906.....586
APB..... See Appraisal Practices Board (ASB)
Appearance Allowance..... 112, 113, 176, 195
Appraisal (Qualified), definition of for noncash charitable contribution appraisals.....200, 212, 216
Appraisal Business
Buying or selling 585
Who owns it? 584
Appraisal Days Fund Raisers 414
Appraisal Foundation, The
Advisory Councils and Groups 345
IAC (Industry Advisory Council).....345
SRAG (State Regulator Advisory Group)....345
TAFAC (The Appraisal Foundation Advisory Council).....345
Appraisal Practices Board (APB) 344
Appraisal Standards Board (ASB).....344
Appraiser Qualifications Board (AQB).....343
Board of Trustees (BOT) 343
Has no legal authority.....343
Industry Advisory Council (IAC).....345
Introduction.....342
Sponsors of 290, 344, 362, 411, 421
The Appraisal Foundation Advisory Council (TAFAC) 345
Appraisal Management Company 35
Appraisal Practice 24, 51, 413, 418
Definition of.....24
Appraisal Practices Board (APB) 344
Appraisal Problem Identification 45, 57, 376, 386, 399
Assignment elements..... 128, 376
Appraisal Process 56, 348, 385, 397
As related to USPAP 385, 397
Definition of.....56
Step 1. Identify the appraisal problem 57, 399
Step 2. Determine the scope of work 58, 400
Step 3. Analyze the property's use, define most appropriate market, analyze economic conditions 59, 401

Step 4. Collect and analyze data, apply approach to value 59, 401
Step 5. Analyze subject property listings, offers to sell, prior sales....61, 402
Step 6. Reconcile value indicators, develop final opinion of value....62, 402
Step 7. Communicate assignment results to client 63, 403
Appraisal Profession, appraiser's ethical obligations to 436
Appraisal Report Options....389, 406
Appraisal Report.... 389
Content of report when using.... 493
Differences between
State vs. Summarize....405, 492
Disclosure of option used.... 405
The use of which is required by USPAP 404
Two types
Appraisal Report.... 406
Restricted Appraisal Report.... 407
Appraisal Report Structure ....See Appraisals; Reports, writing of:Structure of report
Appraisal Reports . See Appraisals; Reports, writing of
Differ from Appraisals 16
Oral....See Oral Reports:Appraisal
Shelf-life of 549
Updating..... See Updating Appraisal Reports
Writing of.... See Reports, writing of
Appraisal Review
Definition of.... 16, 349, 381
Forensic.... 381
Purpose of 51, 383
USPAP STANDARD 3 for development 380
USPAP STANDARD 4 for reporting.... 382
Appraisal Standards Board (ASB) 344
Appraisal Subcommittee (ASC)....341, 346
Appraisal Summary 207, 208
Appraisals..... 14, See also Reports, writing of
Characterized by
Adequately described property 15
Defined value type.... 15
Impartial Appraiser.... 14
Numerical expression of value.... 15
Opinion of value given as of a specific date .. 15
Opinion of value properly supported..... 15
Qualified Appraiser.... 14
Copyrighting of 434
Definition of....14, 348
Development phase.... 398
Differ from Appraisal Reports 16
Disclosing past appraisals as examples 433
Discussing with intended users....40, 433
Expressing value as a relationship.....14, 552
Fees paid for.... 229
Labeling of.... 405
Misleading terms for 293
More than one appraiser involved.....354, 464
Not a legal document 16, 491
Purpose of 51
Reporting phase.... 403
Sample donation appraisal.... 607
Sample form-style report format.... 647
Sample insurance appraisal....613
Sample wording for....512
Shelf-life of....549
Those receiving/using reports not necessarily intended users 39
Updating of.....See Updating Appraisal Reports
USPAP STANDARDS for developing
Business property....393
Mass appraisals 392
Personal property 385
Real property....391
USPAP STANDARDS for reporting
Business property....393
Mass appraisals 392
Personal property 388, 489
Real property....391
Appraisal-Specific Information, in the report.....506
Appraiser 21
Calculates present worth of income-producing property 23
Definition of....21
Develops opinions of value....22
Estimates costs....23
Expectations of....21
Impartial 14
Interest in the property
Conducting the estate sale....366
Normally not an authenticator....322
Qualified....14
Three tasks of....21
Appraiser (Qualified), definition of for noncash charitable contribution appraisals.....200, 212, 213
Appraiser Qualifications Board (AQB)....343
Appraiser-Client Relationship..35, 128, 173, 369, 420, 427, 429, 431, 546, 554
Never ends....35
Appraiser's Peers
Definition of.... 59, 134
Appreciable Property....29
Definition of....29
Describing....475
Valuing of....156
Approaches to Value 59, 149, 152, 401
Cost Approach 162
Income Approach....167
Must consider all three but develop only those applicable....170
Sales Comparison Approach....155
Appropriate Market ..... See Most Appropriate Market
AQB .....See Appraiser Qualifications Board (AQB)
Archaeological Resources Protection Act of 1979..586
Archival Material 484
Arm's-Length Transaction....79
Art Advisory Panel of the IRS..... 230, 543
Art Appraisal Services of the IRS..... 151, 227
Art Loss Register....563
Art Title Insurance....196
Art, IRS definition of....221
Artist-Created Property, donation of..... See Donor-Created Artistic Property, donation of
ASB.....See Appraisal Standards Board (ASB)
Ashkar v. Commissioner....579

Asking Prices, using of....156, 157
Considerations regarding.... 159
Asset-Based Loan Appraisals .See Collateralized Loan Appraisals
Assignment Conditions 58, 60, 130, 140, 507, 532
As related to Scope of Work.... 130
Considered an "assignment element" 128
Definition of.... 45
Unacceptable 46
Assignment Due Date 270
Not an assignment condition.... 46
Assignment Elements of Problem Identification..... 57, 128, 133, 134, 142, 257, 376, 397, 399
Definition of.... 57
Assignment Procurement Fees
Must disclose.... 441
Assignment Results
Definition of.... 17
Measuring credibility of.... 17, 37
Assistance Provided by Others .....139, 283, 354, 430, 463, 464, See also Contingent Appraisals; More Than One Appraiser Involved with an Assignment; Team Appraisals
Significant....354, 355
Definition of.... 354
Assisting Appraiser's USPAP Obligations.... 356
Assumptions..49, See also Extraordinary Assumptions
At the Time of the Assignment..... 36, 40, 142, 360
Attributes of Property (Value-Relevant).. See Relevant Characteristics (of the property)
Auction Houses, as research resources.... 462
Auctions
Buyer assumed to be retail customer.... 212
Audio Recordings of Oral Appraisal Reports .357, 500
For producing appraisal report.... 500
Authentication 326
Basis for.... 328
Extrinsic characteristics of property.... 326
Levels of attribution.... 327
Not always conclusive, subject to change..... 327
Readily Apparent Identity 331
Do not abuse.... 332
Sources for 332
When to perform.... 330
Authors, as research resources.... 462
Autocephalous Greek-Orthodox Church v. Goldberg 563, 564
Averaging Values 456

—B—

Bailment.... 561
Bald and Golden Eagle Protection Act.... 587
Bandwagon Effect.... 255
Bankruptcy Appraisals.... 239
Chapter 11.... 240
Chapter 13.... 240
Chapter 7.... 240
Exempt and nonexempt property 241
Value types for 241
Basis of Property....202, 236
Adjusted.... 237
Stepped-up.... 231, 247
Best Practices for Written Reports.... 501, 506
Betterment 175
Biagiotti v. Commissioner 576
Bibliography
As resource evidence.... 467
Binder or Cover, for appraisal report.... 502
Black Market....151, 310, 577
Blockage Discounts.... 305, 577
Tax court cases.... 580
Board of Trustees (BOT), of The Appraisal Foundation.... 343
Body of the Appraisal Report See Valuation Section of the Appraisal Report
Boilerplate, avoid using.... 512
Book Value.... 102, 115, 143, 259
Books and Periodicals, as research resources.... 457
Born Digital 27
Broad Evidence Rule.... 106, 189, 190
Bundle of Rights ..... 95, 146, See also Property Rights
Definition of.... 32
Business Appraisals
USPAP STANDARD 9 for developing 393
USPAP STANDARD 10 for reporting 393
Business Development, for the appraiser.... 524
Business Enterprise 393
Business Equity.... 393
Business Letter Template, sample of.... 653
Business Personal Property.... 242, 250, 252
Business Structure.... 532
Buyer's Premium 95
Tax court cases.... 579
Buying or Selling an Appraisal Business.... 585

—C—

Capital Assets 203
Capital Gain Property.... 204
Car Donation Appraisals. See Motor Vehicle Donation Appraisals
Case Law
Definition of.... 72
Casualty Loss Appraisals, insurance and transit-related 173
Casualty, Disaster & Theft Loss Tax Deduction Appraisals.... 236
Catalogs, as resource evidence.... 467
Catalogue Raisonné.... 467
Catastrophic Events (an economic characteristic to consider).... 138, 253
Certification (USPAP).... 389, 394
Supplemental 384
Changes to Reports...See Reports, writing of; Changes to
Chapter 1
Appraisal Terminology.... 12
Chapter 2
Appraisal Principles Part I — Value and Cost.... 64
Chapter 3
Appraisal Principles Part II.... 126
Chapter 4

Appraisal Principles Part III - Intended Uses of Appraisals....36, 172
Chapter 5
Appraisal Principles Part IV 253
Chapter 6
Appraisal Principles Part V 308
Chapter 7
Uniform Standards of Professional Appraisal Practice (USPAP) 338
Chapter 8
Ethical Standards of Professional Conduct 423
Chapter 9
Research.... 447
Chapter 10
Describing Property 471
Chapter 11
Writing an Appraisal Report.... 489
Chapter 12
The Professional Appraisal Practice.... 524
Chapter 13
Legal Issues Affecting the Appraiser 561
Characteristics of Property .... See Relevant Characteristics (of the property)
Charitable Contribution Appraisals (Noncash) .... See Noncash Charitable Contribution Appraisals
Charity Auctions.... 202
Chronologies, as resource evidence 467
CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora) 587
Client 34, 128
Appraiser's ethical obligations to 430
As related to Scope of Work.... 128
Definition of.... 34
Disclosing identity of.... 432
Identifying in the report....40, 515
Initial contact with 532
Requests revisions to completed report 552
Client Data Form & Assignment Activity Log .57, See also Log Sheet Continuation Page
Example of....132, 591
Client-Appraiser Relationship .... See Appraiser-Client Relationship
Client-Provided Information26, 48, 139, 201, 289, 298
Climatic Exclusion.... 180
Co-clients 184, 431
Code of Ethics 424
Conflict of interest 437
Ethical obligations to clients.... 430
Ethical obligations to colleagues and the appraisal profession.... 436
Ethical obligations to intended users.... 434
Ethical obligations when giving testimony 437
Example of.... 424
Fee structures.... 440
Misrepresentation in advertisements 444
Unconsidered opinions of value.... 446
Collateral, definition of 251
Collateralized Loan Appraisals.... 251
Colleagues, appraiser's ethical obligations to 436
Collectibles Insurance Policies 192
Collections, how to describe.... 483
Collector Clubs, as research resources 462
Combining Items, when describing 481
Comments, as used in USPAP....393
Commercial Property.. See Business Personal Property
Comparable Market Data.....See Comparable Sales
Comparable Properties....31, 160, 211
Definition of....31
Identification of for donation appraisals 649
Comparable Sales
Occurring after effective date....273
When to include in appraisal report....32
Competency....25
Geographic....25
COMPETENCY RULE of USPAP 373
Competition, principle of....314
Confidential Information
Disclosing....431
Handling of....17, 369, 431, 432, 501
Confidentiality
As per USPAP ETHICS RULE....369
Disclose confidential info if required by law.....464
Integral to appraiser-client relationship.....431
Of emailed appraisal reports 546
Statement of....501
Conflict of Interest, appraiser must avoid 437
Conformity, principle of 314
Constructive Possession vs. Actual Possession 218
Consulting Expert.... 249, 558
Consummated Sales, using of 157
Contaminated Spaces....540
Content of an Appraisal Report389, See also Appraisal Report Options; Reports, writing of
Best practices....501
Optional but recommended content....501
Optional design features 502
Report structure
Appraisal-specific information....506
Item-specific information....508
Supporting documentaion 509
Required content 492
Contingency Fees, unethical 367, 440
Contingent AppraisalsSee also Assistance Provided by Others
Contraband Property.... 149, 151
Laws affecting....586
Tax court cases....581
Contract for Appraisal Services.... 534, 535
Example of
Attorney....594
Private party....593
Contribution, principle of.... 160, 319
Convention on International Trade in Endangered Species of Wild Fauna and Flora....587
Copies of originals, definition of....321
Copyrighting Appraisal Reports....434
Corporate Financial Reporting Appraisals 252
Cost 41, 43
Definition of.... 41, 43, See also Replacement Cost
Include donor's cost in donation appraisal.....221
Cost Approach to Value....22, 153, 162
As viewed by the International Valuation Standards Council 163
Does not conclude market value

Only sets upper limit of market value..... 115
Employs user perspective on value 115
Mentioned in USPAP..... 166
Most useful with depreciable property that is replaceable with new..... 163
Use to determine replacement value..... 164
Valuation principles pertaining to..... 165
Cost, types of..... 116
Acquisition..... 250
Actual Cash Value (ACV)..... 120
Depreciated replacement cost 162, 164
Repair cost..... 122
Replacement cost..... 117
Replacement cost (comparable)..... 121
Replacement cost (new –reproduction) 119
Replacement cost (new) 119
Replacement cost (new) less depreciation 120
Replacement cost (new-production)..... 119
Counterfeits, definition of..... 321
Cover Letter 511
Creators of Value..... See Value Creators
Credibility of Assignment Results 17, 37
Cultural Property 149, 563
Protected 586
Current Appraisal..... 270
Current Form of Property 54
Curriculum Vitae (Professional Profile) 529, 534
Identifying past clients in 530
Customary customers, same as the "public" 90

—D—

Damage Claims Appraisals..... 173, See also Excluded Damages in Transit Damage Claims
Claims settlement options..... 175
Gathering information while on site..... 176
Identify the client..... 173
Preparing the report..... 178
Purpose of 174
Date of Appraisal (do not use this misleading term)See Effective Date of the Appraisal; Date of the Report
Date of Inspection..... See Dates, significant: Date of inspection
Date of the Report...See Dates, significant: Date of the report
Date of Value.....See Effective Date of the Appraisal
Dates, significant 269
Date of inspection..... 270
Date of the report..... 271
Effective date of the appraisal..... 270
Dealers (Specialist), as research resources..... 462
Declaration of Appraiser
As per IRS Form 8283 ..... 208, 209, 215
As per Pension Protection Act 2006. 220, 497, 520, 612
Decorator Market..... 450
Decreasing Returns, principle of..... 314
DEFINITIONS as Used by USPAP 357
Definitions Used in this Book..... 12
Delivering the Appraisal Report
And Getting Paid 544
By email.....544, 546
Depreciable Property
Definition of.....29
Describing.....475
Valuing of..... 156, 163
Depreciated Replacement Cost..... 162, 164
Depreciated Value (a.k.a. Actual Cash Value) 106
Depreciation.....258
Accelerated 262
Accrued 163, 166, 259, 263
Age-Life 260
Caused by obsolescence.....263
Caused by physical deterioration.....263
Not to be confused with loss-of-value.....259
Straight-line 259, 261
Supports opinion of diminished value.....268
Describing Property.....15, 471, 474
Accumulations, how to describe.....483
Collections, how to describe 483
Examples 478
Groupings, collections, and accumulations 481
Groupings, how to describe.....481
How to describe dimensions 485
Learning how to 477
Reasons for 471
Three goals 472
Tips for 484
Desktop Appraisals.....141
Determining Fair Market Value for Federal Purposes 210
Detractors of Value ..... See Value Detractors
Development Phase for Appraisals.....398
Development Phase of Appraisal Process 398
Digital Images, use of..... See Photographs
Digital Signatures.....546
Dimensions, how to describe.....485
Diminution of Value.....111
Disclaimers 333, 507, 519
Do not use "bad" disclaimers 333
In the written appraisal report
Examples of
Common.....334
Fine art 336
Jewelry 335
Disclaimers and Terms of Use 333
For oral appraisal reports 337
For written appraisal reports 333
Disclosures Statement for Oral Appraisal Report ..292, 656
Discrete Market..... See Black Market
Disposal of Workfiles.....554
Disputes, insurance settlement 195
Divorce Appraisals 182
Documenting Resource Evidence.....467
Doherty v. Commissioner 579
Donating Art Obtained from the Creator.....205
Donations..... See Noncash Charitable Contribution Appraisals
Donee Acknowledgment of Noncash Charitable Contribution.....210
Donor-Created Artistic Property, donation of 228
Draft Appraisals ..... See also Preliminary Appraisals
Subject to general obligations of USPAP.....280

Used for billing purposes..... 280
Due Date for Assignments..... 270
Not an assignment condition..... 46
Due Date for Donation Appraisals..... 218
Due Diligence..... 323

—E—

Economic Characteristics of Property ... 138, 147, 253, 257, 324, 325, 472, See also Relevant Characteristics (of the property)
Economic Obsolescence..... 266
Editors, as research resources..... 462
Effective Date of the Appraisal.. 15, 130, 270, See also Dates, significant: Effective Date of the Appraisal
As related to Scope of Work..... 130
Definition of..... 270
Prospective
Can be Only MM/YYYY..... 275
Electronic Signatures..... 546
Electronically Transmitted Appraisal Reports..... 546
USPAP does not address..... 546
Elements of an Assignment .See Assignment Elements of Problem Identification
Email Marketing Services..... 525
Emailing the Appraisal Report.....544, 546
Enclosures to the Report..... 505, 508, 509, 511, 513
Encumbrances..... 387
Examples of..... 147
Endangered Species Act..... 588
Endowment Effect.....255, 670
Engel v. Commissioner..... 576
Equitable Distribution Appraisals..... 181
Estate of David Smith v. Commissioner..... 305
Estate of Elkins v. Commissioner..... 581
Estate of Eva Kollsman v. Commissioner 439, 578
Estate of Georgia T. O'Keeffe v. Commissioner... 305, 307
Estate of Querbach v. A & B Appraisal Serv..569, 570
Estate of Robert C. Scull v. Commissioner..... 303
Estate of Robert G. Hall
Who owns an appraisal?..... 585
Estate Tax Appraisals.....231, 246
Estates and Trust Management.....246, 248
Estimate of Value (EOV)..... 293
Ethical Obligations of Reporting.....409, 491
Ethical Standards of Professional Conduct..... 423
Ethics..... 363, 409, 491
Code of Ethics..... 424
Conflict of interest..... 437
Ethical obligations to clients..... 430
Ethical obligations to colleagues and the appraisal profession..... 436
Ethical obligations to intended users..... 434
Ethical obligations when giving testimony.. 437
Example of..... 424
Fee structures..... 440
Misrepresentations in advertisements..... 444
Unconsidered opinions of value..... 446
Ethical obligations of reporting.....409, 491
USPAP ethics..... 426
ETHICS RULE of USPAP.....363, 426
Evaluations.....124
The term as used with personal property.....124
The term as used with real property.....124
Example
Of a professional profile.....601
Of appraisal report wording.....514
Of client data form & assignment activity log...591
Of contract for appraisal services (attorney).....594, 596
Of contract for appraisal services (private party).....593
Of donation appraisal transmittal letter.....607
Of expert witness engagement letter.....598
Of insurance appraisal transmittal letter.....613
Of inventory form (dinnerware).....604
Of inventory form (flatware).....603
Of letter of introduction..... 605, 606
Of pre-appraisal preparation checklist.....600
Of property descriptions.....478
Of valuation section.....620
Excluded Damages in Transit Damage Claims.....179
Climatic exclusion.....180
Inherent vice exclusion.....179
Mechanical/electrical exclusion.....180
Other exclusions.....181
Pre-existing damages exclusion.....181
Excluded Individuals May not do Donation Appraisals.....215
Executive Summary, use of in a report..... 511, 514
Expectations of Client, Intended Users, Public.....413
Expectations of Market Participants.....69
Expectations of the Public Regarding Appraisers...411
Expert Witness Testimony.....248, 437, 555
Being hired and trial preparation.....557
Presentation of testimony.....559
Exposure Time.....85
Definition of.....85
Developing an opinion of.....87
Disclosing in the report.....88
Examples of.....86
Limited.....244
Occurs prior to effective date.....85
Reasonable..... 43, 54, 81, 85, 173, 212, 400
External Forces that Affect Value.....253
Economic factors.....253
Natural disasters.....253
Other.....255
Perceptions.....254
Interaction effects.....254
Bandwagon effect.....255
Endowment effect.....255
Snob effect.....254
Veblen effect.....254
Regulations.....253
Extraordinary Assumptions.....48, 239, 282, 288, See Assumptions
Definition of..... 48, 288
No label required.....49
Reliability of client-provided inspection data....289

—F—

Facebook 527
Factual Information vs. Opinion of Value 123, 415
Fair Market Value 89, 210, 671
A hypothetical value 91
Case study of 95
Amount obtained not retained 95
As a type of market value 82
As used for ACV 190
Assumes most common market 94
Buyer and seller have reasonable knowledge 93
Defined by regulation 90
Defined by the IRS 90, 199
Neither buyer nor seller under compulsion 93
Sale in lieu of appraisal to determine FMV for estates 233
Sale is "to the public" 93
Tax court cases 577
Willing buyer and willing seller 92
Fair Value 77, 96, 252
As a type of market value 82
Fantasy Items, definition of 322
Federal Land Policy and Management Act 586
Fees 440
Bankruptcy appraisals 242
Finder's fee paid by an appraiser to a non-appraiser as a "Thank You" 443
Finder's fees (a.k.a. Referral fees) 441
Paid by appraiser to procure an appraisal assignment 441
Referral 574
Taxpayer deducting fees paid for appraisals 229
USPAP compliance required even if no fee 441
Volume discount 440
Ferrari v. Commissioner 576
Fiduciary, is an appraiser a? 428
Field Appraisals 141
Field Work, for research 461
Financial Reporting Appraisals 252
Finder's Fees 441
FIRREA (Financial Institutions Reform, Recovery and Enforcement Act of 1989) 341, 346
First Person, writing in the 491
Fixture, definition of 28
Flat Web Design 526
Forced Liquidation Market 54
Forced Liquidation Value 101, 244
Business assets 83, 101
Not a type of market value 83
Personal property, individual's 101
Forces that Affect Value 253
Forensic Appraisal Review 381
Forgeries, definition of 321
Format of Reports, not dictated by USPAP 509
Form-Style Appraisal Report 503, 504
Fractional Appraisals 275, 387
Effect of fractionalization 276
Fractional Donation (a.k.a. Fractional Giving) 228
Fractional Interest 146, 147, 149, 228
Donation of 228
Valuation discounts for 303
Tax court cases 581
Fraud 565
Full Replacement Value Act 107
Functional Obsolescence 265
Functional Value (a.k.a. Value to Owner) 190, 191
Fundamental Conditions for Market Value .. 78, 79, 80

—G—

General Obligations of USPAP .. See USPAP: General obligations of; see also USPAP: Additional obligations of
Geographic Competency 25
Gift Tax
Annual Exclusion 235
Appraisal for 234
IRS Form 709 235
Taxpayer reporting of 235
Gifts from the Artist, basis of 205
Glamour Market 579
Going Concern 64, 100, 162, 166, 169
Going Concern Value-in-Place ... See Market Value-in-Place
Goldman v. Barnett 566
Goldman v. Commissioner 577
Goodwill Allowance 113, 176, 195
Grading Scales 456
Gramm-Leach-Bliley Act 370
Groupings, how to describe 481

—H—

Highest and Best Use ..... 65, 160, 267, 315, See also Principle of Highest and Best Use
As it applies to personal property 316
Alternative uses 316
Appropriate market or market level 317
As it applies to real property 315
Historical Cost 97
Holdback 192
Holocaust Related Art Loss 563
Hunter v. Commissioner 577
Hybrid Appraisals 280
Hypothetical Appraisals 284
Incorrect usage of the term 286
Hypothetical Condition 49, 284
Definition of 49, 50, 284
No label required 50

—I—

IAC (Industry Advisory Council) 345
Identification 324
Principle of 318
Identification & Authentication 320
Readily apparent identity 331
Do not abuse 332
Identifying Suspect Client to Authorities 464
Identifying the Appraisal Problem ..... See Appraisal Problem Identification
Identity of the Client, disclosing 432
Images, use of ..... See Photographs
Income Approach to Value 152, 153, 167
Calculation of 168

Mentioned in USPAP 169
Valuation principles pertaining to 170
Inherent Vice 178, 179, 259
Inspection vs. Non-Inspection . 136, 296, 452, See also Personal Inspections
IRS perspective 200
Inspections ..... See Inspections by Others, Personal Inspections, See Inspections by Others, Personal Inspections
Inspections by Others
Require extraordinary assumption? 140
Insurable Value 116
Insurance Appraisals, for acquiring coverage . 185, 193
Actual cash value policies 185
Agreed value insurance policies 192
Replacement cost insurance policies 191
Settlement options 194, 195
Appearance allowance 195
Cash out 195
Receive only wholesale value 195
Deny claim 195
Goodwill allowance 195
Repair item 195
Replace item 195
When disputes arise 195
Insurance Casualty Loss Appraisals 173
Insurance Policies 106, 185
Insurance, for your business 531
Intangible Articles 27
Intangible Assets ... See Intangible Property (Intangible Assets)
Intangible Property (Intangible Assets) 28, 393
Definition of 28
Intended Use of an Appraisal 36, 129
Ad valorem property tax 249
Art title insurance 196
As related to Scope of Work 129
Buying and selling ..... 172, See also Liquidation Appraisals
Collateralized loans 251
Corporate Financial Reporting 252
Damage claims 173
Definition of 36, 142
Equitable distribution 181
Estates and trust management 246, 248
Federal bankruptcy 239
Federal casualty, disaster & theft loss tax deduction 236
Federal estate tax 231
Federal gift tax 234
Federal noncash charitable contribution 201
Federal tax liability 197
Impacts final appraisal report 490
Insurance, acquiring of 185
Liquidation 243
Litigation 248
Multiple intended uses 37
Multiple values 37
Sales advisory 172
State estate tax 246
State inheritance tax 246
Transit-related damage claims 173
Values associated with 83
Intended Users 36, 38, 129, 406, 407
Appraiser's ethical obligations to 434
As related to Scope of Work 129
Definition of 38
Identifying in the report 40
Must identify by name for Restricted Appraisal Report 408, 498
Requirements for value type 69
Satisfying the needs of 38
Those receiving reports not necessarily 39, 129
Intended Uses of an Appraisals
Commonly used value types for 84
Interaction Effects 254
Bandwagon effect 255
Endowment effect 255, 670
Snob effect 254
Veblen effect 254
Interest in the Property
Appraiser conducting estate sale after peforming appraisal 366
Interest Owned, valuing of 147, 228
Interim Appraisals ..... See Draft Appraisals
Internal Forces that Affect Value
Relevant characteristics (of the property) 256
International Foundation for Art Research 563
International Valuation Standards 15, 76, 674
International Valuation Standards Council (IVSC) .. 15, 76, 156
Internet Appraisals ..... See Online Appraisals
Internet, as a research resource 458
Intrinsic Value 484
Inventory Form
Example of 603, 604
Inventory, donation of 205
Investment Property 110, 150, 152, 167
vs. Non-Investment Property 150
Investment Value 110, 167
Definition of 110
IRS Art Advisory Panel 230, 543
IRS Art Appraisal Services 151, 227
IRS Form 4684 Casualties and Thefts 239
IRS Form 706 United States Estate Tax Return 231, 234, 623
IRS Form 709 United States Gift Tax Return 235
IRS Form 8282 Donee Information Return 229
IRS Form 8283 Noncash Charitable Contributions 205, 231, 621, 639
Declaration of Appraiser 215
Section A 206
Section B 207
IRS Guidance for Donation Appraisals of Art Valued Over $20,000
Photographs 650
IRS Guidance for Donation Appraisals of Art Valued Over $50,000
Object Identification 649
IRS Internal Revenue Manual
Guidelines when reviewing tangible property ... 476
Refer works over $50,000 to Art Appraisal Services 227
IRS Normally not an Intended User 608

IRS Penalty for Over- of Under-Valuations (IRC §6695A) 209, 214
IRS Pub. 547 Casualties, Disasters and Thefts (Business and Nonbusiness) 239
IRS Pub. 551 Basis of Assets..... 239
IRS Pub. 559 Survivors, Executors, and Administrators 234
IRS Pub. 561 Determining the Value of Donated Property..... 208, 210, 230
IRS Pub. 584 Nonbusiness Disaster, Casualty, and Theft Loss Workbook 239
IRS Pub. 950 Introduction to Estate and Gift Taxes 234, 235
IRS Revenue Procedure 65-19 Retail Sales Prices of Items in Decedent's Estate 233, 234, 635
IRS Revenue Procedure 66-49 Appraisal Guidelines & Formats 198, 211, 234, 636
IRS Revenue Procedure 96-15 Post Contribution Pre Filing Procedure 198, 226, 231, 639
IRS Review of Donated Property Valued at Over $50,000 227
Item-Specific Information, in the report 508
IVSC (International Valuation Standards Council) . 15, 76, 156

—J—

Joint Military/Industry Table of Weights and Depreciation Guide 108, 109, 163, 187, 262
Cited in Code of Federal Regulations..... 109
Used by all branches of the military..... 109
Jurisdictional Exception 50
Definition of 50
JURISDICTIONAL EXCEPTION RULE of USPAP 378
Jury Instructions 128, 533

—K—

Kohler v. Commissioner..... 584

—L—

Labeling of Appraisals 405
Legal Issues Affecting the Appraiser 561
Legal Mandates for Value Type..... 71
Letter of Introduction 534
Example of 606
Letters
Agreement for an Oral Opinion of Value, example of 648
Business letter template, sample of 653
Contract for Appraisal Services with a private party, example of 593
Contract for Appraisal Services with an attorney, example of..... 594
Curriculum Vitae, example of..... 601
Letter of introduction to client 538
Example of 606
Pre-appraisal preparation checklist, example of 600
Letter-Style Appraisal Report..... 504
Levels of Attribution..... 327
Regarding authorship 327
Regarding date of execution..... 328
Regarding signature of artist 328
Levels of Trade 53, 309, 449
Liability
Limiting appraiser's 434
Tax-related..... 535
Third-party..... 572
Lightman v. Commissioner..... 579
Limiting Conditions..... 47, 239, 286
As pertaining to competency See also Competency; COMPETENCY RULE of USPAP
Definition of..... 47
Lead to extraordinary assumptions 287
LinkedIn 527
Lio v. Commissioner 577
Liquidation Appraisals..... 243
Liquidation Market
Forced..... 54
Orderly 54
Liquidation Value..... 99, 243
Forced liquidation value 101, 244
Definition of..... 83
Not a type of market value..... 83
Orderly liquidation value 100, 244
Listings of Subject Property, must be analyzed..... 388
Litigation Appraisals and Related Services.... 248, 555
Log Sheet..... See Client Data Form & Assignment Activity Log
Log Sheet Continuation Page..... 537
Example of..... 592
Loss-of-Value 30, 111, 175, 176, 178
Considerations when Determining..... 112
Not to be confused with depreciation..... 30
Reflects loss in "fair market" value.... 112, 259, 675
Use sales comparison approach before and after 114

—M—

Machinery and Equipment
Valuing of..... 169
Using cost approach to value..... 165
Using income approach to value..... 169
Using sales comparison approach to value... 161
Maloney's ACV Calculator, an Excel spreadsheet. 109, 163, 187
Malpractice 568
Mandated Market Choice..... 450
Manipulated Market 254
Marginal Utility, principle of 315
Marine Mammal Protection Act of 1972..... 587
Market 13, 53, 308
Alternative markets 144, 267, 316
Characteristics of..... 310
Choice of 72, 450
Concept of 308
Conditions of..... 72, 456
Atypical 83
Cross-over..... 453
Definition of..... 53
Forced liquidation 54, 453
Levels of trade..... See Levels of Trade
Most appropriate 59, 156, 309, 401, 448, 453

Examples of 72
Most common 94, 450, 453
Orderly liquidation 54, 453
Perfect vs. imperfect 311
Primary 56
Retail 54, 453
Current form of property 54
Secondary 56
Wholesale 54, 453
Market & Value Research ..... See Research
Market Data 454
Analysis of 455
Market Levels 55, 244, 267, 309, 310, 449
Market Perspective on Value 42, 69, 115, 154, 167, 455
Market Value 64, 82
Definition of
Defined in Advisory Opinion 22 79
Fundamental conditions for 78, 79, 80
Market value appraisals 69
Employs market perspective on value 69
Involves sale or purchase of property 78
Used as basis for other types of market value 80
USPAP does not define 79
Market Value-in-Place 66, 100
Marketable Cash Value 99
As a type of market value 82
Marketable Non-Investment Property 150, 152
Marketable vs. Non-Marketable Property 150
Marketing Effort, adequate 85
Marketing Time 85, 89, 245
Occurs after effective date 89
Marketplace Principles ..... See Valuation Principles
Mass Appraisals 249
Definition of 16
Of limited use to the personal property appraiser 392
USPAP STANDARD 5 for developing 392
USPAP STANDARD 6 for reporting 392
Mast v. Commissioner 579
McAnarney v. Newark Fire Insurance Co. 190
Measure of Damages 71, 102, 261, 533
Measurements, how to describe 485
Mechanical/Electrical Exclusion 180
Migratory Bird Treaty Act 588
Military Members and DOD Civilian Employees 107
Minority Interest Discounts ..... See Fractional Interest Discounts
Misleading 47
Definition of 38, 47
Misrepresentations 444
Misuse of these Terms
USPAP Certified Appraisal 444
USPAP Certified Appraiser 444
Mold 180, 540
Monetary Opinions 144
More Than One Appraiser Involved with an Assignment 395, 431, 464, 555, See also Assistance Provided by Others
Most Appropriate Market 53, 59, 77, 156, 309, 401, 448, 453, 454
Examples of 451
Tax court cases 575
Most Common Market 94, 144, 450, 453
For individuals 73, 94
For manufacturers or producers 94
Most Relevant Market in Which to Obtain Replacement 121
Motor Vehicle Donation Appraisals 224
Multi-Market, Multi-Value Appraisals 37, 89, 245
Multi-Use Appraisals 37
Multi-Value Appraisals 37, 245
Museum Volunteers, may not appraise 216

—N—

NACAO (North American Conference of Appraisal Organizations) 14
NAGPRA (Native American Graves Protection and Repatriation Act) 564, 586
Negligence 568
Negligent Referral 573
Net Value 99
As a type of market value 82
Networking With Colleagues 463
Noncash Charitable Contribution Appraisals 201
Amount of deduction 203
Donee Acknowledgement of Contribution 210
Due date of 218
Required information (for any property type) 218
Required information (for works of art) 221
Non-Marketable Non-Investment Property 150, 152
Non-Monetary Opinions 52, 124, 145
Examples of 124
No-Research Appraisal Assignments 469
Numerical Expression of Value 15

—O—

O'Keeffe v. Commissioner 580
Object ID 472, 522
Objective of an Appraisal See Purpose of an Appraisal
Objective of an Appraisal Review ... See Purpose of an Appraisal Review
Obligations, of USPAP ..... See USPAP: General obligations of; USPAP: Additional obligations of
Obsolescence 163, 263, 265
Economic 266
Functional 265
Planned 265
Technological 265
Offers to Buy, irrelevant to the analysis 388
Office Furnishings and Equipment 530
Online Appraisals 26, 298
Definition of 26
Intended uses for the online appraisals 300, 301
Limitations of 299
Qualifying property for the online appraisal 300
Useful for any stolen or lost item 301
Online Presence, your 527
Facebook 527
LinkedIn 527
YouTube 527
Opinion Type
Appraisal or appraisal review 51, 129, 143

Optional but Recommended Content for all Appraisal Reports ..... 501, See also Content of an Appraisal Report
Options
Appraisal report options 404
Oral Appraisal Reports ..... See Oral Reports: Appraisal
Oral Reports ..... See also Reports
Appraisal ..... 290, 388, 390, 404, 446, See also Appraisals; Walk-Throughs
Agreement for 648
Avoid taking shortcuts 291
Disclosures statement for 292, 656
Imposters 295
Must not be misleading 291
Non-researched opinions of value 468
Signature required on USPAP certification . 547
Summary of 123, 415, 648
Uses for 20
USPAP requirements for 290, 291, 294
Written components of 292
Contents of workfile for 553
Definition of 19
Summary of 372
Orderly Liquidation Market 54
Orderly Liquidation Value 100, 244
As a type of market value 82
Businesses, for a defunct 100
Businesses, for a going concern 100
Individuals, for 100
Orderly Liquidation Value-in-Place 101
Ordinary Income Property 203
Original Cost 115
Owner Value ..... See Value to Owner; Value-in-Use
Ownership Interest .32, 147, 303, 386, See also Bundle of Rights
Rule regarding charitable contributions of 202
Ownership Rights ..... See Bundle of Rights; Property Rights

—P—

Pagination 503
Partial Interest 228, 305, 550
Past Sales, using of . See Consummated Sales, using of
Payment for Reports, getting 544
Penalty (IRS) for Over- or Under-Valuations (IRC §6695A) 209, 214
Pension Protection Act of 2006 ..... 198, 200, 212, 223
Section 1216 ..... 207, 646
Perdue v. Commissioner 579
Perfect vs. Imperfect Market 311
Perfection, not required 374, 385
Personal Inspections 18, 136, 139
Definition of 18, 137
Not required by USPAP 452
Reporting requirements for 141
Personal Interest in Subject Property by Appraiser 395, 437, 570
Disclosure of 439
Possible conflict of interest 437
Personal Observations, use of 123, 130, 447, 469
Personal Property 27
Appreciable 29
Definition of 27
Depreciable 29
For businesses 242, 250, 252
Parts of a whole 28
Personal Property Appraisal Assistance See Assistance Provided by Others
Personal Property Appraisals
USPAP STANDARD 7 for developing 385
USPAP STANDARD 8 for reporting 388, 489
Personal Property Appraiser Qualification Criteria (PPAQC) 420
Perspective ..... See Market Perspective on Value; User Perspective on Value
Photographs
Using with appraisals 139, 296, 530, 542, 650
IRS' view 201
Physical Characteristics of Property 138, 256, 257, 324, 325, 472
Definition of 256, 324
Examples of 473
Sharing of 433
Physical Deterioration 263, 264
Planned Obsolescence 265
Post Effective Date Information in a Retrospective Appraisal, use of 273
Pre-Agreement Consulting Services, avoid 537
PREAMBLE of USPAP 361
Pre-Appraisal Preparation Checklist 533, 535
Example of 600
Pre-existing Damage (PED) 114, 174, 179, 181
Preliminary Appraisals ..... See also Draft Appraisals
Present Value ..... See Present Worth
Present Worth 167
Definition of 110
How to calculate 168
Pressure by Third-Parties 435
Price 41, 43
Definition of 41, 44
Price Guides, as research resources 457
Primary Market 55, 577
Principle of Anticipation 170, 313
Principle of Competition 314
Principle of Conformity 314
Principle of Contribution 160, 319
Principle of Decreasing Returns 314
Principle of Highest and Best Use ... 160, 315, See also Highest and Best Use
Principle of Identification 318
Principle of Marginal Utility 315
Principle of Progression 314
Principle of Qualitative Ranking 161, 320
Principle of Regression 314
Principle of Sampling 319
Principle of Substitution 160, 163, 165, 313
Principle of Supply and Demand 161, 313
Principles of Valuation ..... See Valuation Principles
Prior Sales, analyzing of 61
Prior Services Performed by the Appraiser 366
Disclosing of not a breach of confidence 367
Problem Identification ..... See Appraisal Problem Identification

Production Cost 119
Professional Appraisal Practice, the 524
Professional Development 527
Professional Opinion of Value (POV) 293
Professional Profile ..... See Curriculum Vitae (Professional Profile)
Professional, is the appraiser a? 427
Progression, principle of 314
Property
When term refers to future rights of ownership 148
When term refers to the item itself 148
Property Characteristics .. See Relevant Characteristics (of the property)
Property Interests 147
Fractional interest 146, 147, 303
Of artists 149
Undivided interest 147
Property Rights 147, 148
Reproduction Rights 149
Visual Artists Rights Act (VARA) 149
Property Types
Approaches to value for 152
Investment property 110, 152, 167
Marketable non-investment property 152
Non-marketable non-investment property 152
Prospective Appraisal 270
Provenance 329
Public Law 109-280 (Pension Protection Act of 2006) 200, 212
Public, same as "customary purchasers" 90
Public's Expectations of Appraisers 364
Public's Trust in the Profession
Public's Expectations of Appraisers 364
USPAP fosters 12, 13, 70, 338, 347, 430
Publicker v. Commissioner 95
Public's Expectations of Appraisers 411
Purpose of an Appraisal 51, 143, 533
Purpose of an Appraisal Review 51, 52, 381

—Q—

Q&A (USPAP) 394
Qualification Criteria for Appraisers 420
Qualified Appraisal, for IRS
Contents of 218
Definition of for noncash charitable contribution appraisals 200, 212, 216, 233
When required 205
Between $500 and $5,000 FMV 206
Over $5,000 FMV 207
Under $500 FMV 206
Qualified Appraiser, for IRS
Definition of for noncash charitable contribution appraisals 200, 212, 213, 233
Qualifying Organization, rule regarding charitable contributions 202
Qualitative Ranking, principle of 161, 320
Quality Characteristics of Property ... 31, 138, See also Relevant Characteristics (of the property)
Quedlinburg Treasures 576

—R—

Readily Apparent Identity 137, 331
Do not abuse 332
Real Estate, definition of 27
Real Property Appraisals
USPAP STANDARD 1 for developing 391
USPAP STANDARD 2 for reporting 391
Real Property, definition of 27
Reasonable Exposure Time 43, 54, 81, 85, 173, 212, 244, 246, 386
Reasonable Time to Purchase Replacement 121
Reconcile Value Indicators 62, 402
Record Keeping 553
RECORD KEEPING RULE of USPAP 371
Redacting Confidential Information and Assignment Results 433
Redaction, before releasing assignment results 369
Referral Fees 441
Regression, principle of 314
Related Use, rule regarding charitable contributions 202
Relevant Characteristics (of the property) .. 18, 31, 130, 138, 139, 147, 253, 257, 324, 471, 472, 473
As related to Scope of Work 130
As they affect value 257
Definition of 18, 257
Economic characteristics of property 138, 147, 253, 324, 472
Having a material effect on value 15
Identification of during inspection 136
Physical characteristics of property .. 138, 147, 256, 324, 472
Quality characteristics of property 138
Step #1 of appraisal process, identified in 452
Used in value ranking 268
Relying on Information Provided by Others ... 139, See also Assistance Provided by Others
Repair Cost 122
Replacement Cost ..... 23, 117, See also Cost
Estimation of 23
Insurance Policy for 191
Not an appraisal 105
Replacement cost (comparable) 121
Replacement cost (new) 119
Replacement cost (new) less depreciation. 120, 186
To determine ACV 189
Replacement cost (new-production) 119
Replacement cost (new-reproduction) 119
Replacement Value 102, 117, 194
Comparable
Definition of 104
Concept of 83
Evolves from replacement cost 106, 117
General concept of 103
Method of replacement 103
New
Definition of 104
New-production
Definition of 104
New-reproduction
Definition of 104
Not a type of market value 83

Reporting Phase for Appraisals..... 403
Reporting Phase of Appraisal Process..... 403
Reports..... 19, See also Appraisals; Appraisal Report Options; Appraisal Reports; Oral Reports; Reports, writing of
Definition of..... 19
Delivering..... 544
Ethical obligations when preparing.....409, 491
Getting Paid..... 544
Oral.....19, 290
Disclosures statement, for..... 292
True copies of..... 553
Reports, writing of..... 403, 489, See also Appraisals; Appraisal Report Options; Oral Reports; Reports
Appraiser has flexibility in report design..... 509
Best practices.....501, 506
Boilerplate..... 512
Changes to..... 550
Client-requested revisions 552
Has value gone up or down?..... 552
Updating an appraisal..... 550
Optional but recommended content for all appraisal reports 501
Optional report design features..... 502
Required content depends on report option used492
Appraisal Report..... 493
Restricted Appraisal Report..... 498
Sample appraisal report wording..... 512
Sample appraisal reports 607, 613
Sample form-style report format..... 647
State information in a report, when to 405, 492
Structure of report.....504, 513
Appraisal-specific information 506
Enclosures to the report.....505, 509
Form-style appraisal report..... 504
Item-specific information 508
Letter-style appraisal report..... 504
Supporting documentation..... 509
Valuation section 505
Summarize information in a report, when to.... 405, 492
Templates, edit if using..... 512
USPAP does not dictate format of reports..... 509
Reproduction Cost 119
Reproductions, definition of..... 321
Research..... 447
Items of nominal value..... 135, 136, 468
Not always required..... 468
Research Process 452
Research Resources 457
Auction houses 462
Authors, editors, and collector clubs 462
Books and periodicals 457
Field work..... 461
Internet search tools 458
Miscellaneous resources..... 463
Networking with colleagues 463
Price guides..... 457
Specialist Dealers..... 462
Resource Evidence
Auction catalogs 467
Bibliography..... 467
Catalogue Raisonne.....467
Chronologies.....467
Citations in literature 467
Documenting.....467
Exhibition catalogs.....467
Responsible Parties Present at Inspection 501
Responsive Web Design 526
Restricted Appraisal Report Option..... 389, 407
Content of report when using 498
Identify intended users by name (not by type)..408, 498
State restriction limiting use..... 407, 499
Warn may not contain supporting rationale.....499
When appropriate to use 407
Results of an Assignment..... See Assignment Results
Retail Market 54
Current form of property.....54
Retainers.....548
Retrospective Appraisal.....270
Post-effective date information, use of 273
Use clear and concise lanquage.....274
Reversionary Value 168, 171
Reviewing an Appraisal..... See Appraisal Review
Rights of Ownership..... 146, 147
Definition of.....32
Robert Grove Stone v. United States 303

—S—

Sale in Lieu of an Appraisal
In determining FMV for estates.....233
Sales Advisory Appraisals 172
Sales Comparison Approach to Value 22, 152, 153, 155
Applicable to Depreciable or Appreciable Property 156
Mentioned in USPAP 162
More than meets the eye 156
Use to determine forced liquidation value.....157
Use to determine types of market value 157
Uses past sales but maybe also asking prices 156
Valuation principles pertaining to.....160
Salvage Value 101, 112
As a type of market value 82
Sammons v. Commissioner.....581
Sample Appraisal Report 512
For insuring scheduled property 613
For noncash charitable contribution.....607
Form-style report format.....647
Wording for 512
Sample Business Letter Template.....653
Sample Form-Style Report Format.....647
Sampling Technique.....48
Do not use for IRS donation appraisals.....229
Sampling, principle of 319
Scope of Work 34, 126, 298, 474
Acceptability of..... 59, 133
Applies to appraisals and appraisal reviews 127
Defined by the client?.....132
Definition of..... 34, 126
Degree of inspection.....139
Determination of 58, 126, 400

Disclosure of 134
Separate section required? 135
Examples of 135
Identify the appraisal problem before determining SOW 127
Impacts final appraisal report 490
SCOPE OF WORK RULE of USPAP 376
Scrap Value 102
As a type of market value 83
Scull v. Commissioner 579, 581
Secondary Market 55, 577
Self-Employed Working from Home 531
Selling or Buying an Appraisal Business 585
Sentimentality 65, 110, 165, 224, 254
Service Property See Non-Marketable Non-Investment Property
Shelf-Life of Appraisal Reports 549
Signature 549
Another person can sign for the appraiser 550
Definition of 549
Digitized image of signature acceptable 550
Electronic 546
Not a violation of USPAP if stolen 550
Of USPAP certification 549
Required for either paper or electronic version of a report 550
Significant Appraisal Assistance ..... See Assistance Provided by Others: Significant
Similar Items, donating collections of 206, 208
Simulants, definition of 321
Skripak v. Commissioner 577
Smith v. Commissioner 580
Snob Effect 254
Soderberg v. McKinney 569, 572
Software Programs for the Appraiser 521
Special Value 77
Specialist Appraisers and Other Colleagues, use of ..... 282, 354, 464, See also Team Appraisals
Sponsoring Organizations of The Appraisal Foundation 290, 344, 362, 411, 421
SRAG (State Regulator Advisory Group) 345
STANDARD 1 of USPAP 391
STANDARD 2 of USPAP 391
STANDARD 3 of USPAP 16, 380
STANDARD 4 of USPAP 382
STANDARD 5 of USPAP 392
STANDARD 6 of USPAP 392
STANDARD 7 of USPAP 385
STANDARD 8 of USPAP 388, 489
STANDARD 9 of USPAP 393
STANDARD 10 of USPAP 393
Standard of Care 428
State (as Opposed to "Summarize") in a Report 405, 492
State Estate Tax Appraisals 246
State Inheritance Tax Appraisals 246
Statement of Confidentiality 501
Statements on Appraisal Standards, retired 351
Steps in the Appraisal Process ... See Appraisal Process
Stolen Art 464, 562
Identifying suspect client to authorities 464
Stone v. Commissioner 581
Straight-Line Depreciation 259, 261
Disadvantage of 261
vs. accelerated depreciation 261
Subjective Phraseology, avoid using 485
Substance and Principles of USPAP Rule the Day 217
Substantial Evidence 323
Substantive Matters, for oral appraisals 20, 291, 355, 384, 404
Definition of 390, 404, 683
Substitution, principle of 160, 165, 313
Summarize (as Opposed to "State") in a Report 405, 492
Supply and Demand ..... See Principle of Supply and Demand
Supporting Documentation, in the report 509
Synergistic Value 77
Synthetics, definition of 321

—T—

Table of Contents Page, of appraisal report 503
TAFAC (The Appraisal Foundation Advisory Council) 345
Tax Court Cases
After death discounts 303, 581
Blockage discounts 580
Buyer's premium 579
Contraband property donations 581
Fair market value 577
Fractional interest discounts 581
Most appropriate market 575
USPAP compliance determinant? 583
Tax Court, what is it? 90
Tax Work
Appraiser Liability 197
Taxable Value 250
Taxidermy Property, donation of 229, 576
Tax-Related Liability Claims 535
Team Appraisals ..... 283, See also Specialist Appraisers and Other Colleagues, use of; More Than One Appraiser Involved with an Assignment; Assistance Provided by Others; Contingent appraisals
Technological Obsolescence 265
Terminating an Appraisal Assignment 431
Terminology 12
Terms of Use 333
In the written appraisal report 507, 519
Examples of 336
Testimony, the appraiser giving 437
The Appraisal Foundation .. See Appraisal Foundation, The
Third Person, writing in the 491
Time of the Assignment
Definition of 36, 37, 38, 142, 360
Title Insurance, for art 196
Title Page, of appraisal report 502
Title XI, of FIRREA 341, 346
Title, having good 562
Tools of the Appraiser, commonly used 539
Toxic Spaces 540
Trade-in Value 246, 412

Transferability of Title 151
Transit-Related Damage Appraisals..... 173
Transit-Related Damages (TRD) 174
Transmittal Letter 510
Treasury Regulation §1.170A-1(c)(2) Definition of FMV for noncash charitable contribution purposes 199, 219
Treasury Regulation §1.170A-13 Recordkeeping and Return Requirements for Deductions for Charitable Contributions..... 198
Treasury Regulation §1.170A-13(c)(4) Appraisal Summary..... 632
Treasury Regulation §1.170A-16 Substantiation and reporting requirements for noncash charitable contributions..... 640
Treasury Regulation §1.170A-17(a) Definition of Qualified Appraisal....198, 217, 231, 342, 627, 636
Treasury Regulation §1.170A-17(b) Definition of Qualified Appraiser..... 198, 213, 231, 630, 636
Treasury Regulation §1.170A-18 Contributions of Clothing and Household Items..... 206, 213, 651
Treasury Regulation §20.2031-1 Definition of FMV for estate tax purposes..... 90, 91, 93, 94, 234, 516, 609, 625
Treasury Regulation §20.2031-6 Valuation of Household and Personal Effects..... 234, 235, 483
True Copies of Appraisal Reports..... 553
Trusts 246, 248
Types of Appraisals 269
  Current appraisal..... 270
  Prospective appraisal..... 270
  Retrospective appraisal 270
Types of Property .....See Property
Types of Value ..... See Value Type and Definition

—U—

Unacceptable Assignment Conditions..... 46
Unconsidered Opinions of Value.....122, 446
Undivided Interest..... 147, 228, 551
  Donation of..... 228
Unified Credits, tax..... 235
Uniform Standards of Professional Appraisal Practice (USPAP) .....See USPAP
Updating Appraisal Reports 550
User Perspective on Value.. 42, 69, 115, 154, 167, 455
USPAP.....12, 338
  Additional obligations of.....353, 417
  And the Appraisal Process.....385, 397
  Appraisal practice 24, 413, 418
  Appraisal report options 389, 404
    Differences between
      State vs. Summarize..... 492
    Two types
      Appraisal Report.....389, 406
      Restricted Appraisal Report.....389, 407
  Appraisal Subcommittee (ASC).....341, 346
  Assignment types governed by 348
  Certification.....389, 394
    Modification of..... 396
    Supplemental..... 384
  Changes for 2020-2021 Edition 3
  Compliance with 132, 352, 354
    Factual information vs. opinion of value.....123, 415
    Illustration of.....418
    Is compliance determinant?.....583
    Must vs. should comply.....410
    When no assignment fee charged 441
  Ethical obligations of reporting 409, 491
  Federally Related Transactions, required only for 341
  FIRREA (Financial Institutions Reform, Recovery and Enforcement Act of 1989) 341, 346
  General obligations of..... 280, 352, 414, 417
  General requirements and performance requirements of 351
  History of.....339
  Introduction.....338
  Misuse of the USPAP acronym after appraiser's name.....445
  Obligations to comply.....413
    Additional obligations 353, 417
    General obligations..... 414, 417
  Other communications.....394
  Performance requirements and general requirements of 351
  Personal property version.....338
  Property types governed by.....349
  Purpose of.....347
  Q&A.....394
  Regulated by 347
  Signature.....546
  STANDARD 1.....391
  STANDARD 2.....391
  STANDARD 3..... 16, 380
  STANDARD 4.....382
  STANDARD 5.....392
  STANDARD 6.....392
  STANDARD 7.....385
  STANDARD 8..... 388, 489
  STANDARD 9.....393
  STANDARD 10.....393
  Tax court cases.....583
  Title XI..... 341, 346
  USPAP publication..... 344, 394
  Valuation service.....24, 412, 418
  Website for 339
  When must an appraiser comply with USPAP?352, 413
USPAP and the Cost Approach.....166
USPAP and the Income Approach.....169
USPAP and the Sales Comparison Approach.....162
USPAP Certified Appraisal
  Misuse of the term.....444
USPAP Certified Appraiser
  Misuse of the term.....444
USPAP Structure.....350
  Comments.....393
  COMPETENCY RULE.....373
  DEFINITIONS.....357
  ETHICS RULE 363
    Conduct section.....365
    Confidentiality section.....369

Management section 367
JURISDICTIONAL EXCEPTION RULE..... 378
PREAMBLE..... 361
RECORD KEEPING RULE..... 371
SCOPE OF WORK RULE..... 376
Ten STANDARDS 379
STANDARD 1 391
Governs real property appraisal development 391
STANDARD 2 391
Governs real property appraisal reporting 391
STANDARD 3 ..... 16, 380
Governs appraisal review development ... 16, 380
STANDARD 4 382
Governs appraisal review reporting..... 382
STANDARD 5 392
Governs mass appraisal development..... 392
STANDARD 6 392
Governs mass appraisal reporting 392
STANDARD 7 385
Governs personal property appraisal development 385
STANDARD 8 ..... 388, 489
Governs personal property appraisal reporting..... 388, 489
STANDARD 9 393
Governs business appraisal development 393
STANDARD 10 393
Governs business appraisal reporting..... 393

—V—

Valuation Discounts..... 303
After death discounts 303
Blockage Discounts 305
Fractional interest discounts 303
Valuation Principles..... 308
Item related
Principle of contribution..... 160, 319
Principle of identification..... 318
Principle of qualitative ranking..... 161, 320
Principle of sampling 319
Market related..... 308
Highest and Best Use 160, See also Highest and Best Use
Market characteristics 310
Market, perfect vs. imperfect..... 311
Market, The..... 308
Most appropriate market related 309
Principle of anticipation 313
Principle of competition 314
Principle of conformity 314
Principle of decreasing returns..... 314
Principle of marginal utility..... 315
Principle of progression..... 314
Principle of regression..... 314
Principle of substitution..... 160, 165, 313
Principle of supply and demand..... 161, 313
Valuation Section of the Appraisal Report 505
Valuation Service..... 24, 412, 418
Definition of..... 24
Valuation, synonymous with "appraisal" 15
Value 15, 41, 64
Always justified 42
Averaging data points to determine 456
Definition of..... 41, 64, 66
None endorsed by USPAP 67
Definition source..... 68
Expressing as a relationship 14, 552
Market Perspective ..... See Market Perspective on Value
Measuring of..... 77
Must be defined..... 15
Objective vs. subjective schools of thought 41
Types of
Point values..... 51
Range of values..... 51
Relational values 52
User Perspective..... See User Perspective on Value
Value (Taxable)..... 250
Value Characteristics. See Relevant Characteristics (of the property)
Value Creators 136, 253, 452
External factors affecting value..... 253
Internal factors affecting value..... 256
Value Detractors..... 258
Value Opinion Supported..... 15
Value Ranking 268, 452, 456, 471
Value Research ..... See Research
Value Summary Page, of appraisal report..... 503
Value to Owner ..97, 189, 190, 254, See also Value-in-Use
Value Type and Definition..... 66, 129
As related to Scope of Work 66, 129
Associated with various intended uses..... 83
Determines most appropriate market 72, 448
Dictated by intended user requirements 69
Dictated by legal or regulatory mandates..... 71
Dictated by market expectations..... 69
Examples of 74
Selection of..... 68
Value Types
As used for various intended uses..... 84
Other than replacement employs market perspective..... 154
Replacement employs user perspective..... 154
Value-in-Exchange..... 64, 66
Value-in-Place..... 65, 184
Market value-in-place..... 66, 100
Orderly liquidation value-in-place..... 101
Value-in-Use..... 64, 65, 181, See also Value to Owner
Value-to-Owner 189
Valuing Rights of Ownership..... 32, 146
VARA (Visual Artists Rights Act)..... 149
Veblen Effect..... 254
Vehicle Donation Appraisals..... See Motor Vehicle Donation Appraisals
Verbal Approximation of Value (VAV) 293
Verbal Reports ..... See Oral Reports
Visual Artists Rights Act (VARA)..... 149

—W—

Walk-Throughs.....122, See also Oral Reports
Web Design
Flat.....526
Responsive.....526
Web Search Tools as Research Resources.....458
Website, benefits of having.....525
When Must an Appraiser Comply with USPAP?..352, 413
While On Site, issues to consider.....538
Recording data.....540
Use caution when inspecting property.....541
Whitehouse Hotel v. Commissioner.....583
Who Owns an Appraisal?.....584
Williford v. Commissioner.....579
Workfiles.....20
Contents of.....372, 553
Custody of.....554
Definition of.....20, 371
Disposal of.....554
Electronic versions of.....554
For oral reports.....292, 371
Keep even if client cancels assignment.....372
Purging at client's request.....555
Required by RECORD KEEPING RULE.....371
Retention of.....553
Retention of if appraiser deceased.....373
When more than one appraiser.....555
Working from Home.....531
Writing an Appraisal Report....See Reports, writing of
Writing in the First or Third Person.....491

—Y—

YouTube.....527

NOTES

NOTES

NOTES

Appraising Personal Property: Principles and Methodology

9th Edition

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