



RECENT COURT CASE ILLUSTRATES IMPORTANCE OF RETAINING QUALIFIED APPRAISERS

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Chiarelli Underscores Renewed IRS Interest in Enforcing Section 170 Noncash Requirements and the Need for Professional Appraisers

If a recent Tax Court case tells appraisers and users of appraisal services anything, it's that the IRS is working to rein in poorly documented noncash charitable contribution deductions. And with increased scrutiny of support for noncash deductions, retaining a qualified appraiser is more important than ever.

In *Chiarelli v. Comm'r*, T.C. Memo. 2021-27 (U.S.T.C. Mar. 3, 2021)¹, we encounter a taxpayer who sought to claim noncash charitable contribution deductions for three tax years – 2012, 2013, and 2015. The property to be donated was acquired via inheritance, and the taxpayer hired someone from an auction and estate sales company to advise him on property disposition and to perform the required appraisals.

In each tax year, the taxpayer claimed over \$75,000 of deductions based on the donation of "miscellaneous household items," "clothing and household furniture," and "various household items and clothing." Moreover, none of the sections of Form 8283 that require a signature were completed by the relevant parties. Finally, neither the taxpayer nor the appraiser provided more than one or two receipts in connection with the donative activity, and these documents lacked sufficient detail to establish the properties that were donated.



So what did the court find?

Predictably the Tax Court found that the dearth of documentation, coupled with unsigned 8283 Forms, meant that the taxpayer failed to strictly comply with the requirements of Section 170. However, the court emphasized that the taxpayer also failed to meet the “substantial compliance” bar set by cases such as *Hewitt v. Commissioner* and *Bond v. Commissioner*².

Under substantial compliance, the court looks to see if the taxpayer has effectively complied with the spirit or intent of the underlying law, even if they have not met every requirement established by regulation in connection with that law. This is intended to prevent unfair outcomes when the taxpayer made a good faith effort to comply but made small oversights that prevent them from claiming strict compliance.

In *Chiarelli*, the court held that some elements – such as obtaining a contemporaneous written acknowledgment (CWA) of the donation – fell short of meeting the burden for proving substantial compliance. The court further acknowledged that while in some circumstances the filing of an incomplete Form 8283 can be overcome under substantial compliance, in this case the “Forms 8283 that petitioner submitted with his returns were almost entirely incomplete and lacked signatures from the donor, the donee, and the appraiser.” As the court went on, it noted the problem was compounded by the taxpayer “not otherwise provid[ing] reliable written records credibly identifying the individual items donated, their values or condition, the manner of acquisition, the donation dates, or his bases in the property.”

In short, the court supported the IRS in the case, enforcing over \$62,000 in underpayment penalties against the taxpayer – a loss of the claimed deductions for the taxpayer.

What does this mean for appraisers?

For starters, this case gives yet another example of how the IRS examines appraisers’ performance in connection with noncash charitable contributions. The taxpayer’s appraiser espoused a basic approach to value, “broadly stat[ing] that he researched the original cost of the inherited property, determined its condition, and then set a fair market value for each item.” The appraisals and the 8283 Forms failed to identify individual items or groups of similar items, or the age or condition of these items.

More plainly, the appraiser failed to substantiate his opinion with detailed facts, comparable sales, and clear analysis. Therefore, the court found against the taxpayer.

For professional appraisers – such as those designated by ASA – this decision underscores the importance of preparing an appraisal with sufficient support and analysis in connection with an opinion of value. The *Chiarelli* decision mirrors the *Kollsman v. Commissioner*³ case in that the failings of the appraisal doom the taxpayer almost from the start.

This case also parallels *Kollsman v. Commissioner*³ because the appraiser’s role went beyond providing an opinion of value. In *Chiarelli*, the appraiser “advised [the taxpayer] to donate a large portion of the inherited property to charity.” While not a financial interest as in *Kollsman v. Commissioner*³, this placed additional advisory burdens on the appraiser to direct the donative behavior of the client and provide certain documentation services beyond what is common in an appraisal. Given how harshly the court viewed the absence of any such documentation, it is reasonable to expect a level of enmity arose between the taxpayer and the appraiser.

This point also extends to Form 8283. While the appraiser is responsible for Section B, Part IV, on page 2 (which requires appraiser identification information and a signature on the Declaration), going beyond the prescribed appraisal field can create additional work burden initially, as well as the possible liability later when and if the IRS audits the donation. Appraisers should refrain from completing fields that, per the Instructions for the 8283, are designated for completion by the donor or their tax preparer.

How should taxpayers view this case?

For one, *Chiarelli* is a reminder that if you intend to itemize and claim noncash charitable contributions, documentation matters.

Whether it’s

- the receipt from the donation recipient organization,
- the contemporaneous written acknowledgment (CWA), or
- keeping personal records indicating date, donee, and item descriptions.

This evidentiary support for the deduction makes a difference when the IRS scrutinizes the noncash charitable contribution and the tax deduction.

It is essential to hire trained, experienced, and credentialed professional appraisers who provide comprehensive appraisal services and can have conversations around what they can and cannot do for a client. While it may appear limiting, keeping firewalls around the appraiser can prevent the kinds of bad outcomes seen in cases like *Chiarelli* and *Kollsman v. Commissioner*³. Designated professional appraisers – such those accredited by ASA – are best suited for such assignments.

About the Author:

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[1] <https://casetext.com/case/chiarelli-v-commr-1>

[2] <https://casetext.com/case/hewitt-v-commr-of-internal-revenue>

[3] <https://casetext.com/case/estate-of-kollsman-v-commr>