Higher Deconstruction and Reuse Appraiser Standards—
why internal regulation is critical

The following research has been compiled by team members of The Green Mission Inc. and in conjunction with the coalition Save Deconstruction Deductions partnership.

The Green Mission Inc. Team includes:

Jessica Irving Marschall, CPA, President and CEO
Mayur Dankhara, LEED AP, ISA AM, and COO
Diane E. Scarbrough, Lead Appraiser and VP
Jennie Lumpkin, Director of Business Development

Save Deconstruction Deductions Coalition:

Edward A. Dunn, Executive Director, Building Resources
Jessica I. Marschall, listed above

Tax deductions have always influenced tax and financial planning choices. Battles in Congress and resulting Internal Revenue Service tax codes are written to influence or promote policies, whether they be corporate financial growth, higher tax collections, purchasing homes, or contributing to charities. The current individual federal tax return provides incentives for donating to charities as a tax-savvy strategy for individuals and corporations to reduce their taxable income.

Donation of deconstructed building materials to a nonprofit or government agency allows the taxpayer to generally take a deduction for the Fair Market Value of the donation. The goal of reduced taxable income is attained as well as that of reducing construction and demolition waste going to the landfill. It is a win-win…unless the valuation of property is incorrect.

Our drive at The Green Mission, Inc. to shore up appraiser and appraisal standards is an attempt to preserve this tax deduction and prevent the ongoing alleged and actual abuses that have riddled the industry over the past few decades, especially 2011 to the present.

Of critical importance is this:

The SALES COMPARISON APPROACH is the correct valuation approach.

Using correct valuation methodology, these tax deductions can continue to drive the decision to deconstruct and donate.
A team of industry members from Build Reuse presented a blog post, discussing the most recent court case disallowing a taxpayer’s deduction for deconstructed materials, *Loube v. US*, January 2020. From the blog post:

“Thank you for taking the time to write “Tax Court Demolishes Deconstruction Deduction” from the perspective of a tax professional. Your description of the pros and cons within our industry was insightful, however, notably disproportionate. One fact that you may not be aware of is that the appraiser, in this case, was well known in the reuse industry for having inflated values and for using an incorrect methodology (emphasis ours). Appraisers and other reuse stakeholders were doing their part to make this known for a good ten years. Having this methodology finally disallowed by the IRS is a victory. Unfortunately, at the expense of the taxpayer.”

As demonstrated within the public court documents, the “incorrect methodology” was using the Cost Approach to value materials and plugging numbers into to Construction Cost Estimating Software. These documents represent our research demonstrating that the Sales Comparison Approach to value must always be used as the primary valuation method. This is supported by the Uniform Standards of Professional Appraisal Practice (USPAP), the IRS, International Society of Appraisers (ISA), American Society of Appraisers (ASA), and in the underlying financial tax and accounting standards found in Generally Accepted Accounting Principles (GAAP).

Based on the above assertions by fellow industry members and colleagues, we must assume that most deconstruction/reuse appraisers do not use Construction Cost Estimating Software—the software is not designed to value used materials. Examples of this software include but are not limited to: RS Means and Marshall & Swift. Furthermore, based upon research from the above listed authorities, the Sales Comparison Approach must be used primarily and all appraisers should understand and apply this valuation method.

We offer the following research in the spirit of collaboration called for by other ethical appraisers as outlined in the blog post referenced above.

Taxpayers, nonprofits, deconstruction contractors and other interested industry members should take comfort in knowing valuations using correct methodology, the Sales Comparison Approach, still provide very good tax deductible value. The tax deduction still acts as an offset to higher deconstruction costs as well as an incentive to potentially pull the taxpayer ahead financially by choosing to deconstruct and donate rather than demolish and trash.

*The deconstruction and reuse industry cannot continue to rely on either inflated valuations or inaccurate valuation methods.*

Additionally, using square footage evaluations to determine value does not lead to the most accurate estimates. A smaller home packed full of wood flooring, solid doors, high quality windows and new appliances can generate a higher square footage valuation than a large home full of carpeted floors, vinyl windows and old appliances.

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1 https://yourtaxmatterspartner.com/response-to-deconstruction-deduction-post/
We promote these *accurate* valuation standards to protect the tax deduction and ensure it can continue to incentivize waste diversion. Ensuring every interested party is educated on these standards is critical. Appraisers *must* follow these standards, not at our direction, but at the direction of every organization tasked with enforcing correct standards including the IRS, ISA, ASA, The Appraisal Foundation and the Appraisal Standards Board.

*We drafted the accompanying articles for the purpose of providing educational resources to be used by industry members and taxpayers on a range of topics pertaining to deconstruction and reuse.*
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**The Green Mission Inc.—**
*Deconstruction or reuse industry appraisal services at a higher standard*

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Document One
Deconstruction or Reuse Industry Appraisal Updates: Sales Comparison Approach Mandated for Valuation

Personal property appraisals of deconstructed building materials that are donated to qualified organizations are produced to determine their value as non-monetary charitable contributions, which, when claimed on IRS form 8283, are used to substantiate a tax deduction. Appraisals produced for this purpose must comply with USPAP and appraisers undertaking such assignments must endeavor to utilize the comparable sales methodology or make a declaration that no suitable comparable sales exist. Recent court cases Mann v. US and Loube v. Commissioner have brought the issue of appraisal valuation methodology to the forefront of appraisal and tax practice standards. While neither case hinged on valuation methodology per say, the IRS noted disapprovingly in both cases that a Cost Approach to valuation had been applied and would have resulted in the deductions being denied had not more mundane errors been identified and cited to disallow the deduction. Compounding the methodological issues was that cloud based Construction Cost Estimating Software was utilized to arrive at appraised value. Our extensive research of IRS codifications, Generally Accepted Accounting Principles (GAAP), Uniform Standards of Professional Appraisal Practice (USPAP), International Society of Appraisers (ISA) and American Society of Appraisers (ASA) guidelines and relevant case law all unanimously call for the Sales Comparison Approach as the primary method to be used when the valuations are produced for income tax purposes. The Cost Approach should only be employed when comparable sales data does not exist.

First, let us debunk the myth that the Sales Comparison Approach results in negligible values that do nothing to incentivize a taxpayer towards deconstruction and away from demolition. Deconstructed building materials do have value on the resale market. Utilizing the correct valuation methodology does not threaten the deconstruction or reuse industry. Appraisers using inappropriate methodologies, however, are the real threat. The annual Build Reuse Conference hosted IRS Counsel Alexandra Nicholaides two years in a row. In conversations with other interested IRS Counsel, they have each indicated that they are aware of these deviations from the correct approach. The latest cases make it even clearer that, for the deconstruction deduction to continue to offset the higher costs of deconstruction, the supporting appraisals need to utilize the correct methodology.

Secondly, we have found throughout the industry that square foot estimations of initial quoted value ranges for appraisals are highly inaccurate. We are using the Sales Comparison Approach to quote value ranges, just like we use in our appraisals. Generalizations regarding an appraiser’s square footage value when reviewing an appraisal do not provide consistent data. While appraisers who regularly hit $40 to $80 sq/ft all the way up to $110 sq/ft averages are highly suspect, individual appraisal assignments must evaluate every detached material component and the market value of each individually in evaluating the aggregate value. Per the Mann case, only materials that cross the threshold of the nonprofit should be included in the total appraisal valuation. A large house with low-quality materials and obsolete appliances may have a very low sq/ft rate while a small house packed with brand new appliances and high-quality materials could be quite high and should not be quoted with the aid of square footage estimates.
Case Law Establishing the Sales Comparison Approach as Correct Methodology

It should be acknowledged that appraisal inflations and deflations exist across all appraisal industries: estate tax, gift tax, easement donations, and charitable contributions—all have been riddled with abuses. Anselmo v. Commissioner, 1983, held that there should be no distinction between the definition of fair market value for different tax uses (gift, estate, charitable.) Loube v. Commissioner faulted the use of construction cost estimating software intended to estimate the costs of new construction, breaking the subject structure down into its constituent parts and then applied depreciation to arrive at an appraised value of $297,000. The assessed improvements, per tax records, were $308,000. The sum of the parts is not nearly equal to the whole when determining deconstructed material value and the comparison between these two values strains credulity on the surface. However, the IRS was able to win the case on summary judgment because the appraiser, nonprofit and taxpayer did not properly fill out form 8283. Mann v. US cited a deed filing mandate in disallowing the deduction but began the subsequent paragraph with the dreaded “Even if…” introduction. All three of the appraisals produced in Mann were deemed unqualified.

IRS Definitions of Fair Market Value

In general, IRS fair market value definitions are in line with Generally Accepted Accounting Principles (accounting standards), which require a valuation to be based on a selling price in the open market.

Financial Accounting Standards Board (FASB) FAS 157 Fair Value Measurements

This standard 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.” The price determination mirrors the arm’s length requirement used by appraisers in that the asset could be sold in a usual manner without any forced transactions. Just like personal property appraisal standards, FAS 157 requires the valuation to be chosen from the principal (or most advantageous) market. The highest and best use of the asset in determining valuation is also a requirement present in FAS as well as appraisal standards. Valuation techniques are defined as the Market Approach, the Cost Approach and the Income Approach. The Market Approach is defined along similar guidelines as the Sales Comparison Approach in appraisal standards. Input valuations include Observable and Unobservable inputs. Observable inputs are those that “reflect the assumptions market participants would use in pricing the asset or liability developed based on market data obtained from sources independent of the reporting entity.” Unobservable inputs are “inputs that reflect the reporting entity’s own assumptions about the assumptions market participants would use in pricing the asset or liability developed based on the best information available in the circumstances.”

There is a “Fair Value Hierarchy” outlined, which includes Level 1-3 Inputs. Levels are given priority based on the valuation techniques. The levels run in hierarchal order with Level 1 being at the top. These inputs are “quoted prices (unadjusted) in active markets for identical assets or liabilities that the reporting entity has the ability to access at the measurement date. An active market for the asset or liability is a market in which transactions for the asset or liability occur with sufficient frequency and volume to provide pricing information on an ongoing basis. A quoted price provides the most reliable evidence of fair value and shall be used to measure fair value whenever available…” Level 1 inputs are observable. Level 2 inputs are “inputs other than
the quoted prices included within Level 1 that are observable…” They must be observable over the full term of the asset. These include quoted prices for similar assets, those same quoted prices in a market that is not active, or values corroborated by observable market data. Level 3, the bottom of the hierarchy, includes unobservable inputs only to be used when Level 1 or Level 2 are unavailable.

Deconstruction or reuse material appraisals are obviously not valuing complicated financial instruments, but rather personal property that is commonly found on resale markets for which comparable sales data is plentiful. Moving to a Cost Approach to valuation using the equivalent of Level 3 inputs goes against market-driven valuations that are mandated across disciplines: case law, IRS, accounting and appraisal organization literature.

**International Society of Appraiser’s Pronouncements on the Sales Comparison Approach and the Cost Approach**

ISA’s Core Course Lesson 12—Appraisal Uses, Part 2 U.S. Federal Tax Functions details the appropriate appraisal methodology to be used when preparing valuations for income tax purposes—the Sales Comparison Approach.

From Lesson 12, (bold in original) “The sales prices of properties similar to the donated property are often important in determining the fair market value. Using sales of comparable properties is often the most common way that the appraiser will show evidence for a value conclusion. Users of appraisals, such as the IRS, find this method the most convincing.”

Formulas are frowned upon when determining fair market value. Utilizing new construction price modeling software does not just use formulas, it produces valuations with no connection to reality—market driven sales data. “Using such formulas seldom results in an acceptable determination of fair market value. For example, one cannot simply say that ‘fair market value equals 25% of replacement cost.’ There is no single formula that always applies when determining the value of personal property. Instead, the appraiser must do proper market research to gather comparable sales that support opinions of value.” Utilization of improper formulas is precisely what occurs when software such as RS Means or Marshall & Swift is used to inappropriately value deconstructed materials—knocking off a portion of the cost by arbitrarily (or even accurately) assigning depreciation.

Additionally, cost modeling software leaves the door wide open for appraisal inflations. If a value is coming in a little low, the appraiser can change depreciation years or choose a higher quality of material. While inflations can still be accomplished using comparable sales data—for example, cherry-picking top values outside of the most common market and of higher quality than the appraised material—cost estimation software is a much easier path towards valuation inflations.

Finally, under the heading The Qualified Appraisal from Lesson 12, we find the following statement (bold in the original), “The appraisal will not be given much weight if all factors that apply are not considered, the opinion is not supported with facts (such as purchase price and comparable sales), or the opinion is not consistent with known facts.” In other words, the appraiser’s opinion is never more valid than the facts on which it is based; without these facts, it is simply a guess.”

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Again, from Lesson 12, the ISA details when *Replacement Cost* should be used. The heading provides the qualifier “*Replacement Cost (Used Infrequently)*” Replacement cost is defined as, “The amount it would cost to replace the donated item as of the date of valuation…Often the replacement cost by reproduction far exceeds the fair market value.” They describe the methodology as, “To determine the replacement cost of the donated property, find the ‘estimated replacement cost new,’ then subtract from this figure an amount to compensate for depreciation of the donated property. You should be able to show the relationship between the depreciated replacement cost and the fair market value, and how you arrived at the ‘estimated replacement cost new’ as well.” The lesson below is provided within the book. Please note that when the intended use is donation and the appraisal objective is to determine fair market value the approach used is the *Sales Comparison Approach*. This table is from *ISA Core Course Lesson 1: Appraisal Theory, Part 1—Introduction*

<table>
<thead>
<tr>
<th>Intended Use</th>
<th>Appraisal Objective</th>
<th>Approach Used</th>
<th>Result</th>
</tr>
</thead>
<tbody>
<tr>
<td>Donation</td>
<td>Determine Fair Market Value</td>
<td>Sales Comparison</td>
<td>Fair Market Value</td>
</tr>
<tr>
<td>Insurance Coverage</td>
<td>Estimate Cost</td>
<td>Cost</td>
<td>Replacement Costs New and/or Comparable</td>
</tr>
<tr>
<td>Financial Planning</td>
<td>Calculate Present Worth</td>
<td>Income</td>
<td>Present Worth</td>
</tr>
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Again, from Lesson 1, the *Cost Approach*, “compares the item being appraised with the cost to replace it.” Further along, “The cost approach can also be used to estimate the depreciated reproduction cost or the depreciated replacement cost new. These might be necessary when calculating an amount of a cash settlement in the case of an insurance loss to property that was covered for only its actual cash value and not its replacement cost new.” Finally, the primary purpose and usage of the *Cost Approach* is presented. “The cost approach is frequently used for insurance and damage claims appraisals when it is necessary to estimate the amount that would have to be paid to replace an item of property should that property require replacement in the future.”

The *Cost Approach* is absolutely not the primary approach in valuing deconstructed materials and donated property for income tax deduction purposes.

**American Society of Appraiser’s Insights**

*ASA Monograph 4—Markets: Navigating & Analyzing the Options* states USPAP’s requirement for the appraiser to consider all three approaches to value: *Sales Comparison, Cost and Income* when producing an appraisal and states that for almost all personal property appraisals, the *Sales Comparison Approach* should be used. Market research must be conducted to determine the correct market from which to analyze values when
using the Sales Comparison Approach. In terms of donated construction material and donated property, all resale markets should be considered, including nonprofit reuse center. For some regions, these markets may best represent arm’s length sales transactions most commonly entered into by a consumer wishing to purchase used materials and property. It cannot be assumed that every nonprofit reuse sales business is operating as a liquidation market, either orderly or forced, and is under compulsion to sell the materials. Were this the case, why would for-profit reuse yards not consistently stock up on the deeply discounted or free materials, which they could then sell at much higher price points?

A liquidation market is a venue where “property is sold for the winding-up or dissolution of an enterprise.” Nonprofit reuse yards do sometimes have space restraints and must move inventory quickly but this might be no different than a for-profit retail store having a clearance sale to make room for new inventory. ASA provides orderly liquidation examples to include rummage, yard or estate sales.

When producing appraisals for use in substantiating tax deductions, the federal definition of Fair Market Value must be used, in accordance with the underlying accounting principles. Federal regulations require the appraiser to analyze properties where the subject type is most commonly sold to the public. This market must include analyzing all resale outlets, whether for-profit or non-profit.

Market forces must also be considered. If a market is flooded with deconstruction or reuse materials due to a deconstruction mandate, the supply will exceed demand and the opinion of value for these materials will be lower.²

ASA Monograph 7—Analysis of Research: Approaches to Value Market Models reviewed the three approaches to value and again states that Sales Comparison Approach is used in most assignments by personal property appraisers. Specifically, this approach should be used when the following conditions apply:

1. Non-income producing property
2. When a new or reproduced item would not have the same value or utility
3. When the type of value and intended use of the appraisal dictate that the property be valued in its current (used) condition.

Point number three is critical—this is the appraisal assignment for deconstruction/reuse material and property donation.

Using the Sales Comparison Approach, the appraiser relies on the Principle of Substitution, which states that the value of replacement property is indicated by an “equally desirable substitute property in the appropriate marketplace.” The appraiser uses their expertise to determine the value of the substitute.

Again, this chapter emphasizes that appraisals completed for a federal tax filing follow the code of Federal Regulations for determining Fair Market Value. This is based on comparable properties from the market where “such items are most commonly sold to the public.” The appraiser must research all markets (for-profit, non-profit, online sales, auctions, etc.) to determine where the property is most often traded.

² American Society of Appraisers: ASA Monograph 4—Markets: Navigating & Analyzing the Options
The Cost Approach is an essential tool for “valuing specific categories of property where no comparable market exists.” Consider the examples given below. It is easy to see that this method does not apply to deconstructed material and property and primary use of this method is inappropriate.

1. Immovable properties like large murals
2. Unique properties like portraits of family members
3. Commissioned items like a sofa in the shape of Texas
4. Property for which no market or comparable sales exist, like a scale model of a Ringling Brothers Circus
5. Special artistic endeavors like a 67-foot sculpture
6. Property with commodity value like precious metals and stones
7. Repairs for damaged items
8. Items that can be reproduced by a willing maker.

It would be a stretch to try and include property like lumber, kitchen appliances and doors into any of the above categories.  

Concluding Thoughts

The correct methodology is undisputed after a thorough review of appraisal standards, IRS regulations, case law and accounting standards—the Sales Comparison Approach must primarily be used. The Cost Approach can be used sparsely when comparable sales data absolutely does not exist but the appraiser deems the material or property to still possess value. These valuations must be rare and thoroughly documented as being justified. Relying primarily on the Cost Approach, as demonstrated in both cases Mann and Loube and likely used by other deconstruction/reuse appraisers still today, must be stopped if we hope to preserve the non-monetary charitable contribution for deconstructed materials as the incentive to drive environmentally-responsible choices. As appraisal industry members, we will push forward insisting on accuracy, promoting the dissemination of valid appraisal approaches, applying tax and accounting standards and insist all interested parties are fully informed with regard to how these appraisals should be produced. We look forward to moving forward together towards greater waste diversion.

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3 American Society of Appraisers: ASA Monograph 7—Analysis of Research: Approaches to Value Market Models
**Document Two**

**Appraiser Ethics and the “Qualified Appraiser”**

As an introduction, the role of an appraiser is to provide an unbiased opinion of value. They are not to accept assignments that place the appraiser into a position of advocacy for a client or client’s interest. Appraisers should not allow outside parties to influence their opinion of value. Outside parties include nonprofits claiming to vet appraisers and choose who the client may or may not use as an appraiser, deconstruction contractors dictating the minimum value the appraiser must hit or clients who agree to engage an appraiser only if they receive a guaranteed valuation.

Appraisers must be “Qualified” per IRS definition. This includes education and experience requirements.

1. The appraiser must have **verifiable** education and experience in valuing the type of property for which the appraisal is performed. Simply sitting through some training courses is not sufficient.

2. As of the date of signing, the individual has satisfied the following requirements:
   a. Successfully completed professional or college-level coursework in valuing the type of property and has 2+ years-experience, or
   b. Earned a recognized appraiser designation for the type of property.

Designation from a recognized appraiser organization: Are the appraisers **accredited** members where it can be assumed they have received comprehensive education and training in USPAP and principles of valuation? Were written exams and peer reviews part of this education.

The American Society of Appraisers (ASA) and International Society of Appraisers (ISA) stratify membership and accreditation levels as follows:

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⁴ American Society of Appraisers, Monograph 13: Ethics and the Personal Property Appraiser
ASA Levels:

ASA Membership Grades

Per Bylaw VI, ASA has several “grades” of membership:

- **Candidate**: A non-professional category of membership that signifies an individual has begun the process of study and gaining experience as an appraiser.
- **Accredited Member (AM)**: is an earned designation based on education, testing, experience (two years full time at a minimum), exams and peer review of appraisal reports.
- **Accredited Senior Appraiser (ASA)**: is an earned designation based on education, testing, experience (five years full time at a minimum), exams and peer review of appraisal reports.
- **Fellow (FASA)**: is an honorary category given to members based on experience and service to ASA and/or the appraisal profession.
- **Life Member**: is an honorary category bestowed on a select few members based on experience and service to ASA and/or the appraisal profession.
- **Honorary Member**: is an honorary category given to non-members based on unusual and valuable service to ASA and/or the appraisal profession.

*Please note: Applicants are not considered a “grade” of membership.*

Only designated members in good standing are permitted to use the name and logo. *This does not include candidates.*

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5 American Society of Appraisers—Monograph 13: Ethics and the Personal Property Appraiser
Finally, while there can be competent and experienced deconstruction or reuse industry appraisers lacking a college education, the attainment of an undergraduate and graduate degree in complementary subjects is critical for a higher-level understanding of the underlying tax and accounting concepts. Especially when preparing an opinion of value to be used for a federal income tax deduction. The rigors of attaining both an undergraduate and graduate degree prepare an appraiser to comprehend the valuation models as well as executing proper judgment when including or excluding relevant markets, sales data and statistical analysis of data.

ISA Membership Levels:

**Membership Levels And Designated Credentials**

**Member - ISA**
Completed the core ISA training in appraisal theory, methodology, ethics, and report-writing standards and has documented three or more years of market-related experience.

**Accredited Member - ISA AM**
Official designation of a qualified ISA appraiser with a declared specialty and 700 documented hours of appraisal-related experience.

**Certified Member - ISA CAPP**
The highest achievement in ISA credentialing and the appraisal industry, signifying appraising expertise, professional development, and advanced skills. An ISA CAPP member has 900 documented hours of appraisal reporting and has passed the CAPP examination.

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6 ibid
7 https://www.isa-appraisers.org/credentialing
There are approximately 17-20 deconstruction or reuse industry appraisers nationwide. Some may not have the requisite education and skill to apply accurate values to deconstructed materials and personal property. Current proposals for raising the bar on appraiser standards have not been implemented. In fact, wording of some standards have decreased due diligence requirements. The taxpayer is the one who suffers financially if appraisals are inflated and not produced using appropriate methodology. The Green Mission Inc. has set higher standards than the industry dictates and ensure they are followed by our team. Before contracting with an appraiser, be sure to ask the following questions:

**Appraiser Questions**

1. Name of appraiser and company
2. Are they a sole practitioner or do they have a company with support staff?
3. Is the company a family-owned and operated business or is it a company with unrelated employees and owners?
4. What level of education and experience does the appraiser have along with the business owner and staff?
5. What educational or vocational institutions did the appraiser attend, what were their graduation dates and what was their concentrated area of study or major?
6. To what appraisal organization(s) does the appraiser belong? If it is an organization besides ASA or ISA explain why they chose not to be a member of one of the two organizations with deconstruction or reuse material appraisers who sponsor The Appraisal Foundation.
7. What Continuing Education courses has the appraiser taken and what were the dates of the coursework?
8. What methodology do they use in determining valuations? If it is not the Sales Comparison Approach (SCA) please provide substantiation as to why that methodology is not used.
9. Does the appraiser use New Construction Estimating Software?
10. Have any appraisals produced by the appraiser or their company been deemed “unqualified” in court cases?
11. A timeline of the appraiser’s work experience including detailed descriptions of positions held, responsibilities and variety of industries within which they worked.
12. Have they been peer reviewed and if so, when was the review and what was the result?
13. Can they provide a redacted sample of a recently completed deconstruction/reuse appraisal?
14. What is the total number of appraisals completed independently? (allowing for administrative assistance)
15. Vetted client testimonials

The Green Mission Inc., ensures our robust staff meet high standards of education and experience. Jessica I. Marschall, CPA, President and CEO has a tax consultation practice, is an adjunct professor in tax and accounting and devotes her current research to the non-monetary charitable deduction heightened standards. Mayur Dankhara, LEED AP, ISA AM, COO has practiced within the construction and deconstruction/reuse industry for over a decade. He researches best practices for deconstruction and waste diversion in both residential and corporate settings. Diane E. Scarbrough, ISA, has seven years of deconstruction/reuse and personal property appraisal experience and was a licensed real estate appraiser prior to her transition to personal property. She has produced hundreds of appraisals a year. Our robust support staff ensures adequate time is devoted to research and that client needs are met immediately. We ensure a constant stream of communication with clients as well as responsiveness to their questions and concerns.
The Qualified Appraiser
Producing deconstruction or reuse material, and personal property appraisals with accuracy
Increasing the Standards

Within the industry of personal property appraisal production, many brilliant individuals utilize conservative and accurate valuation and set the standard for the industry. Unfortunately, like any financial sector, there is the potential for abuse. These abuses are typically one of two types and often a combination of both. 1) The appraiser purposefully inflates appraised values by employing methods such as: inflating quantities of materials or property donated, appraising a higher quality of material or property than what is being donated, haphazardly applying depreciation methods that produce a higher value than one utilizing the correct life of the property, including materials or property on an appraisal that did not actually transfer to a nonprofit and a myriad of additional avenues ending in misrepresentation. 2) The appraiser lacks adequate education and industry knowledge to determine valuation including the above-referenced metrics such as quantity, quality, deliverables or depreciation methods and may not ensure the donee’s inventory of accepted materials matches what has been included on the appraisal.

It is of critical importance to increase personal property appraiser standards for each interested party in the donation cycle. 1) The donor of the personal property desires an accurate valuation for their income tax return to substantiate the donation so it is not disallowed. 2) The nonprofits, government entities and other qualified receiving organizations need property donations to continue fulfilling their individual missions. 3) The United States Treasury does not want to lose large sums of tax dollars due to inflated values. 4) Environmental needs mandate promotion of reuse of materials—diverting from the landfill to donation. 5) Appraisers and appraisal companies would like to work together to establish educational and best-practices as an industry and ensure only those qualified and ethical remain.

U.S. Code §170 Charitable Contributions and gifts provides details of how individuals and corporations can deduct charitable contributions on an income tax return. For donations of property (non-monetary) charitable contributions, an appraisal is required for donations over $5,000. Additionally, the appraisal must be attached to the return if it exceeds $500,000 in value. Furthermore, these appraisals must be produced by a “Qualified Appraiser” as defined below:

(E) Qualified appraisal and appraiser For purposes of this paragraph—
   (i) Qualified appraisal The term “qualified appraisal” means, with respect to any property, an appraisal of such property which—
   (I) is treated for purposes of this paragraph as a qualified appraisal under regulations or other guidance prescribed by the Secretary, and
(II) is conducted by a qualified appraiser in accordance with generally accepted appraisal standards and any regulations or other guidance prescribed under subclause (I).

(ii) **Qualified appraiser** Except as provided in clause (iii), the term “qualified appraiser” means an individual who—

(I) has earned an appraisal designation from a recognized professional appraiser organization or has otherwise met minimum education and experience requirements set forth in regulations prescribed by the Secretary,

(II) regularly performs appraisals for which the individual receives compensation, and

(III) meets such other requirements as may be prescribed by the Secretary in regulations or other guidance.

(iii) **Specific appraisals** An individual shall not be treated as a qualified appraiser with respect to any specific appraisal unless—

(I) the individual demonstrates verifiable education and experience in valuing the type of property subject to the appraisal, and

(II) the individual has not been prohibited from practicing before the Internal Revenue Service by the Secretary under section 330(c) [2] of title 31, United States Code, at any time during the 3-year period ending on the date of the appraisal.8

The educational and experience requirements in §170 are vague. Must an appraiser have completed college course work and if so, which courses? Must they have a degree and if so, does an Associate degree suffice or must it be a Bachelor or Master’s degree? The onus for maintaining standards appears to have been shifted to “recognized professional appraiser organizations” in some respects. Additional guidance was given in a rule by the IRS published on the federal register on July 30th, 2018.9 The rule is entitled “Substantiation and Reporting Requirements for Cash and Noncash Charitable Contribution Deductions.” This article does not attempt to cover all provisions found within the rule and a close read is recommended to anyone within the industry seeking to gain greater knowledge on charitable contributions. However, the rule does reiterate that appraisals must follow Generally Accepted Appraisal Standards, defined as the “substance and principles of the Uniform Standards of Professional Appraisal Practice [USPAP], as developed by the Appraisal Standards Board of the Appraisal foundation.” In section D. Parity Between “Designation” and “Education and Experience,” the proposed regulations require an individual to satisfy the following requirements:

A. Successfully completed professional or college-level coursework in valuing the type of property and has two or more years of experience in valuing the type of property; or

B. Earned a recognized appraiser designation for the type of property.

Examples are given of coursework, requiring a final exam as being sufficient to meet educational requirements and it states “mere attendance at a training event is not sufficient, and evidence of successful completion of coursework is necessary under final regulations.”

The American Society of Appraisers summary of educational requirements state, “To be a “qualified appraiser,” the individual must either have a designation from a professional appraisal organization or must

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8 https://www.law.cornell.edu/uscode/text/26/170
have completed professional or college-level coursework in valuing the type of property to be donated and have two or more years’ experience valuing that type of property.” Designations from appraisal organizations in lieu of college-level course work and college graduation, in our opinion, does not benefit the industry. We hold the position that this must include a college degree. Producing statements of value for appraisals to substantiate deductions in the tens of thousands (and often hundreds of thousands) of dollars align more closely with the work performed by Certified Public Accountants, Certified Financial Planners or Chartered Financial Analyst, all of which require at least a Bachelor’s degree and a Master’s degree for a CPA. Making college completion optional can only serve to lower the barriers to entry and allow individuals who lack the vigorous educational experience and knowledge set only gained through college education. Professional coursework outside of the college classroom, might be a great source of learning and applicable appraisal education but those courses may not adhere to the same standards found in a college or university setting with requisite examinations and grading. Appraisal organizations could work with existing college structures to include their courses within a university online or in-person setting and achieve the same dissemination of relevant industry knowledge.

Licensure must also be considered and eventually implemented much like within the real estate appraisal industry. Membership within an appraisal organization may include rigorous standards but requiring licensure through a rigorous examination process could be key to raising the barriers to entry.

With any industry changes, education and licensure requirements could be phased in giving current appraisers adequate time for completion. However, the practice of “grandfathering” in appraisers prior to 2018 who have not completed any college course work must be eliminated. Community colleges can work with adjunct professors to provide coursework at an affordable cost and online college courses with rigorous examinations could be made available. Appraisal companies can invest in their employees by helping with or funding college course work for their appraisers. An adequate time-frame for implementation could be five years with coursework towards a degree started within one year of implementation of increased education requirements. Appraisal organizations including International Society of Appraisers (ISA), American Society of Appraisers (ASA) and Appraisers Association of America (AAA) could provide both college coursework as well as co-write the licensing exam. Current examinations and produced appraisals for review are often completed remotely increasing the propensity for cheating. A proctored and in-person licensing exam would be mandatory.

As we push forward with our mission towards increased waste diversion, we will work closely with industry leaders sharing these goals. We will petition the IRS Commissioner, Secretary of the Treasury and the Chief Counsel as well as members of Congress to help support and enact changes. As a bipartisan issue, we expect support from many sharing our goal of increasing standards for what constitutes a “Qualified Appraiser”.

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Document Five

Relevant Court Cases in Valuing Personal Property by an Appraiser

Kollsman v. Commissioner—Summary: HOLDINGS: [1]-In a case involving a deficiency that arose from respondent's determination that petitioner estate under-reported, for purposes of I.R.C. § 2031, the value of two paintings held by decedent at her death, petitioner's expert's valuations were unpersuasive because he had a significant conflict of interest, it appeared that he exaggerated the dirtiness of the paintings on the valuation date and the risks involved in cleaning them, his analysis and conclusions regarding cleaning the paintings were contrary to the well-established principle that the hypothetical willing buyer and seller would be presumed to have reasonable knowledge of relevant facts affecting the value of property at issue, and he provided no comparables to support his valuations; [2]-Respondent's expert's valuations were credible and supported, although slight downward adjustments were required.11

Mann v. US—Taxpayers sought to take a deduction for their deconstructed home donated to charity including personal property within the home. The deduction was disallowed and all three appraisals provided to the IRS were deemed “unqualified” for deficiencies. The appraiser used Construction Cost Estimating Software to arrive at their opinion of value. A link to the case can be found here: https://law.justia.com/cases/federal/district-courts/maryland/mddce/8:2017cv00200/377054/41/

Loube v. Commissioner—Taxpayers again sought to take a deduction for a deconstructed home and the deduction was disallowed. The case was disallowed due to the appraiser not filling out tax form 8283 completely. However, the appraisal, which respondents claimed was not qualified, used Construction Cost Estimating Software to arrive at their opinion of value. A link to the case can be found here: https://ustaxcourt.gov/UstcInOp/OpinionViewer.aspx?ID=12129

Anselmo v. Commissioner—The full definition of Fair Market Value must be used for valuing estate, gift and charitable contributions. Treasury Regulation §20.2031-1(b) expands upon this definition, "The fair market value... is not to be determined by a forced sale nor is the fair market value of an item to be determined by a sale within a marketplace other than that in which the item would be most commonly sold to the public, taking into consideration the location of the item wherever appropriate." FMV is to be determined by a sale. Not an estimate derived from Construction Cost Estimating Software.

11 https://advance.lexis.com/open/document/lpadocument/?pdmfid=1000522&crid=dXJuOmVbnRlbmRjdGvirt0\VNWTMtUzdCMS1GM\DRLTYwMElMDAwMDA\&ddocfullpath=%2Fshared%2Fdocument%2Fcases%2Furn%3AcontentItem%3A5MY3-S7B1-F04K-600B-00000-00&pdcomponentid=6139
The Green Mission Inc. is excited to announce our expanded best-practice protocol for deconstruction/reuse appraisal production. In light of two recent cases that disallowed tax deductions for deconstructed properties, we have researched and analyzed IRS codifications and USPAP regulations to produce appraisals with appropriate documentation and valuation substantiation on the front and back end of production. We have implemented more rigorous standards in developing our preliminary estimated value range.

Case Background

The cases Mann v. US, January 2019 and Loube v. Commissioner, January 2020 demonstrate the disallowance of deductions when the appraiser fails to accurately document, value and even fill out tax form 8283 correctly. When producing USPAP-compliant appraisals to substantiate federal and state tax valuations for estate, gift or charitable contributions, the Sales Comparison Approach should be primarily used. Should comparable sales data not be available, the Cost Approach can be used. However, the appraiser must substantiate, in their opinion of value, why they opine that the material or property has value devoid of comparable sales data. In Mann and Loube, material costing software called RS Means was used, with arbitrary depreciation applied, which resulted in inflated valuations. This software’s usage is meant to provide new construction costing estimates by geographic region not as a database for calculating used materials and property valuations. Additionally, misuse of the Cost Approach through use of software like this, takes very little time. Producing an appraisal with the correct Sales Comparison methodology takes approximately 80-90 hours of office time for an average residential structure. Utilizing RS Means software could take anywhere from 15-120 minutes.

Changes to Preliminary Quoted Values

We have raised the bar when producing our preliminary estimate of a deconstruction or reuse material project's quoted value range. In an internal database, we now include a comprehensive list of all materials and personal property that can be salvaged and donated from a project. The following steps are now implemented:

1. Our team reviews the information from our inspection of the property or from photographs provided to us. Each material or piece of personal property that can be salvaged from the project is input into our database with cross-referencing to the photographs. We research comparable sales data points for each material or property and store the comparable sales data points within our database. An estimated value range is produced based entirely upon line-item valuation datapoints and without any estimations or simple square-footage calculations. Our research and data trials indicate that square-footage estimation is overly general and produces unreliable value ranges. For example, smaller homes with large amounts of high-quality materials and property sometimes have much higher square-footage calculations than a large home with minimal materials to be salvaged due to lower-quality of materials or damage.
2. This detailed list will then be sent to the nonprofit and/or deconstruction contractor to confirm that each item will be donated and to remove any that will not. The provided list does not include valuation data to ensure neutrality by the nonprofit and deconstruction contractor with regard to materials salvaged.

3. Our team will provide an estimated value range based upon the final list, vetted by the nonprofit and/or deconstruction contractor, which includes additions or deletions from the above-referenced step. We provide this service to client’s free of charge but we retain the internal database files until after client engagement.

4. The client will have a complete understanding of how values are derived for every item they are donating, ensuring complete transparency. Additionally, their CPAs and tax attorneys will understand the composition of the deduction by line-item with cross-referencing to comparable sales data and photographs for substantiation once they receive the final appraisal.

5. Providing the initial detailed list to the client, deconstruction contractor and nonprofit will provide a streamlined process. Full documentation and substantiation will occur from the front-end to the final appraisal production. Should a client’s deduction come under review, the taxpayer will be prepared with substantiation of every value with corresponding pictures and comparable sales data.

**Reliable Appraisals**

Our appraisals are all USPAP compliant—when producing appraisals to be used for tax value substantiation they must be. The database and documentation we produce within the appraisal and our internal work-file provide the substantiation the client, their CPA and tax attorneys need to feel confident when taking the deduction. Given the alleged and actual abuses in deconstruction or reuse industry appraisal valuations, it is critical for our industry to self-regulate, raise the bar on practices and protect this environmentally-friendly tax provision.

The deductions must remain in force. Their ability to act as an incentive towards achieving C&D waste diversion remains a critical factor in moving clients away from demolition and towards deconstruction. The Green Mission Inc. is committed to incorporating our team's expertise of tax law, deconstruction management and appraisal production to ensure accurate appraisals with full documentation and substantiation when reviewed by the IRS.
Document Seven
Charitable Contributions as an Aggressive Tax Shelter

Taxpayers often choose to deconstruct homes or corporate buildings with hopes of taking an income tax deduction for charitable contributions. Like all things tax-related, the potential for abuse is high.

**How does this work?**
Homeowner A chooses to deconstruct their home. A contract is signed with Deconstruction Contractor B to dismantle the structure and donate the salvaged materials to Nonprofit C. A hires Appraiser D to value the materials. D inspects the property, creates a list of materials and begins the appraisal valuation. D **incorrectly** values the materials and property using one of three prevalent methods, none of which align with appraisal standards, IRS code or accounting standards and results in inflated valuations:

1. Takes the value of the brand new material and deducts depreciation from this value.

2. Plugs the material into new construction pricing software and then applies *any* depreciation rate to arrive at the desired value (note, this software is not meant to value used materials), or

3. Determines a square footage value for the home and applies it across the board as donation value.

The correct method is to research comparable sales data from the market to arrive at a valuation for each material. The *Cost Approach* can be used only in rare cases where a very valuable material or property does not have comparable sales data available, i.e., custom made furnishings or built-in features.

The example below, calculates valuations for a 2,500 square foot home using Methods 1-3 above as well as the correct method. Please note Method 3 is presented in total at the bottom. Method 1 uses a 10-year life with 2 years depreciation taken. Method 2 demonstrates haphazard depreciation rates applied within construction estimating software to reach desired values. The correct method, uses comparable sales data from completed transactions.

<table>
<thead>
<tr>
<th>Deconstructed Home 2,500 square feet</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sample of Materials and Property</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Method 1</th>
<th>Method 2</th>
<th>Method 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kitchen Cabinets and Countertop</td>
<td>$2,952.00</td>
<td>$3,200.00</td>
<td>$600.00</td>
</tr>
<tr>
<td>Flooring, 1,800 sq/ft</td>
<td>9,489.60</td>
<td>10,500.00</td>
<td>5,382.00</td>
</tr>
<tr>
<td>Subzero Refrigerator</td>
<td>10,308.00</td>
<td>11,100.00</td>
<td>3,970.00</td>
</tr>
<tr>
<td>Exterior Windows, 10</td>
<td>1,102.32</td>
<td>1,250.00</td>
<td>510.00</td>
</tr>
<tr>
<td>KitchenAid Single Wall Oven</td>
<td>1,680.00</td>
<td>2,000.00</td>
<td>500.00</td>
</tr>
<tr>
<td>Interior Doors, 25</td>
<td>3,940.00</td>
<td>4,200.00</td>
<td>875.00</td>
</tr>
<tr>
<td>Washer and Dryer, Whirlpool</td>
<td>1,007.28</td>
<td>1,100.00</td>
<td>550.00</td>
</tr>
<tr>
<td><strong>Total:</strong></td>
<td><strong>$30,479.20</strong></td>
<td><strong>$33,350.00</strong></td>
<td><strong>$12,387.00</strong></td>
</tr>
</tbody>
</table>

**Method 3** uses an estimated sq/ft rate. The list above represents approximately 1/3 of the home, with the appraiser using $65/sq ft. This would result in a value of **$54,167**
Sales Comparison Approach (should be the predominant method) - the most appropriate market is researched to locate comparable items which have sold or listed for sale in the past on which an opinion of value can be based. Adjustments in value are made to reflect differences (if any) in value considering relevant characteristics between the comparable properties and the subject properties.

Cost Approach (used rarely and only when necessary) - This approach may be used in rare instances where comparable sales are not readily available on the second-hand market. In this approach, the basis for value is developed by evaluating the cost to reproduce or purchase a new suitable replacement property (adjusted downwards to reflect all forms of depreciation such as physical, functional and external). The market should be thoroughly researched to determine the appropriate depreciation due to the factors noted.

However, some appraisers take short-cuts and use the above-listed approaches incorrectly. Often, software meant for construction professionals to create budgets and estimate projects for new construction are erroneously used for deconstruction/reuse appraisals. One example of this software is called RS Means—cloud based access to a comprehensive database of construction costs in North America. While the software provides valid estimates for new construction it should never be used for deconstruction or reuse material appraisal valuations.

Producing an accurate appraisal on a deconstructed home of approximately 2,000 square feet would take close to a week (80-90 hours) of research by the appraiser and support staff. However, simply dumping materials and property, through data entry, into RS Means tables could take 1 hour or less. The unethical appraiser cuts down the time needed to do the complex research necessary for appropriate valuation and charges the same fees as those appraisers who produce valuations using Generally Accepted Appraisal Standards and following USPAP. Hence, they can produce high numbers of appraisals, collect high fees and spend minimal time on valuations.

Equally concerning is the valuations generated using RS Means—on average, they are grossly inflated. For example, RS Means gives a cost range of $525 to $1875 for a 4+ cycle dishwasher, however, you can buy a 4+ cycle KitchenAid dishwasher for slightly over $200 and luxury brands such as Bosch, Miele and Fisher and Paykel can be purchased for less than $1000.

Additionally, unethical appraisers could take these practices beyond usage of RS Means and artificially inflate quantities of materials and quality of materials within the RS Means valuation grid. For example, 250 square feet of oak hardwood flooring can be changed to 500 and the type or width of hardwood can be changed to a much more expensive variety with very little oversight.
Please see the hypothetical valuation differences in the table below showing the valuation differences between using the Sales Comparison Approach and the correctly applied Cost Approach against valuations from RS Means software.

<table>
<thead>
<tr>
<th>Approach to Value</th>
<th>Item Description</th>
<th>QTY</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>RS Means</td>
<td>Kitchenaid Dishwasher, 4 cycles, energy star (Cost new $525, less 50% depreciation)</td>
<td>1</td>
<td>263</td>
</tr>
<tr>
<td>Sales Comparison Approach</td>
<td>Kitchenaid Dishwasher, 4 cycles, energy star (Used, Sold)</td>
<td>1</td>
<td>105</td>
</tr>
<tr>
<td>Cost Approach (when used appropriately)</td>
<td>Kitchenaid Dishwasher, 4 cycles, energy star (Cost new $207, less 50% depreciation)</td>
<td>1</td>
<td>104</td>
</tr>
<tr>
<td></td>
<td>Valuation Variance $158-$159</td>
<td></td>
<td></td>
</tr>
<tr>
<td>RS Means</td>
<td>Water Heater, gas, 30 gallon (Cost new $805, less 50% depreciation)</td>
<td>1</td>
<td>403</td>
</tr>
<tr>
<td>Sales Comparison Approach</td>
<td>Water Heater, gas, 30 gallon (Used, Sold)</td>
<td>1</td>
<td>270</td>
</tr>
<tr>
<td>Cost Approach (when used appropriately)</td>
<td>Water Heater, gas, 30 gallon (Cost new $559.99, less 50% depreciation)</td>
<td>1</td>
<td>280</td>
</tr>
<tr>
<td></td>
<td>Valuation Variance $123-$133</td>
<td></td>
<td></td>
</tr>
<tr>
<td>RS Means</td>
<td>Vinyl clad fixed window, 59.5&quot; x 53.5&quot; (Cost new $730, less 65% depreciation = 255.5 each)</td>
<td>22</td>
<td>5621</td>
</tr>
<tr>
<td>Sales Comparison Approach</td>
<td>Vinyl clad fixed window, 59.5&quot; x 53.5&quot; (Used, Listed $135 each)</td>
<td>22</td>
<td>2970</td>
</tr>
<tr>
<td>Cost Approach (when used appropriately)</td>
<td>Vinyl clad fixed window, 59.5&quot; x 53.5&quot; (Cost new $359.75, less 65% depreciation = 125.91 each)</td>
<td>22</td>
<td>2770</td>
</tr>
<tr>
<td></td>
<td>Valuation Variance $2651-$2851</td>
<td></td>
<td></td>
</tr>
<tr>
<td>RS Means</td>
<td>2 x 4 framing lumber, pine 1200sf (Cost new $5.71/sf less 55% depreciation= 2.57/sf)</td>
<td>1200</td>
<td>3084</td>
</tr>
<tr>
<td>Sales Comparison Approach</td>
<td>2 x 4 framing lumber, pine 1200sf=3600lf (Used, Listed $.40/LF<strong>not vintage or antique</strong>)</td>
<td>1200</td>
<td>1440</td>
</tr>
<tr>
<td>Cost Approach (when used appropriately)</td>
<td>2 x 4 framing lumber, pine 1200sf=1200bf (Cost new $2.75/BF, less 55% depreciation = 1.24/BF)</td>
<td>1200</td>
<td>1488</td>
</tr>
<tr>
<td></td>
<td>Valuation Variance $1596-$1644</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Total variance of just 4 items = $4,500 to $4,800</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The total value of these 4 items from the RS Means is $9,371, from the Sales Comparison Approach the total value is $4,785 and from the appropriately applied Cost Approach the total value is $4,642. The RS Means resulted in a 51% inflation of the value. Apply this to a 2,000 to 3,000 sf house with a value of approximately $80,000 using the Sales Comparison Approach, with the RS Means it would be valued around $120,000.

It is of utmost necessity that you vet your deconstruction/reuse appraiser closely. The taxpayer is the final user who will bear the brunt of these grossly inflated deconstruction/reuse appraisals with punitive measures such as: underreporting penalties, high fines depending on the percentage of valuation inflation, late payment fees and underpayment penalties. It is up to those of us within the deconstruction or reuse industry to ensure only those with the requisite knowledge-base, education and experience remain within the industry.

12The data is from 2011 RS Means software, which is what is available for trial. Current RS Means valuations are, most likely, slightly higher.
Document Nine

Noncash Donation Reporting Reminders

In our efforts to keep industry members and clients informed of IRS requirements for donation documentation, we are providing the following reminders, with regard to donation substantiation requirements.

From IRS Publication 526 Charitable Contributions

Noncash Deductions of Less than $250:

If you make any noncash contribution, you must get and keep a receipt from the charitable organization showing:

1. The name and address of the charitable organization,
2. The date of the charitable contribution, and
3. A description of the property in sufficient detail for a person not generally familiar with the type of property to understand that the description is the contributed property.

Deductions of at Least $250 but Not More Than $500

You must get and keep a contemporaneous written acknowledgement of your contribution from the qualified organization. If more than one contribution of $250 or more, you must have either a separate acknowledgement for each or one acknowledgement that shows your total contributions. This must include items 1-3 above as well as:

1. It must be written
2. It must include:
   a. A description (but not necessarily the value) of any property you contributed,
   b. Whether the qualified organization gave you any goods or services as a result of your contribution (other than certain token items and membership benefits), and
   c. A description and good faith estimate of the value of any goods or services described in (b). If the only benefit you received was an intangible religious benefit (such as admission to a religious ceremony) that generally isn’t sold in a commercial transaction outside the donative context, the acknowledgement must say so and doesn’t need to describe or estimate the value of the benefit.
3. You must get it on or before the earlier of:
   a. The date you file your return for the year you make the contribution, or
   b. The due date, including extensions, for filing the return.
Deductions Over $500 but Not Over $5,000

If you claim a deduction over $500 but not over $5,000 for a noncash charitable contribution, you must have the contemporaneous written acknowledgement and written records described in the last section. Your records must also include:

- How you got the property, for example, by purchase, gift, bequest, inheritance, or exchange;
- The approximate date you got the property or, if created, produced, or manufactured by or for you, the approximate date the property was substantially completed; and
- The cost or other basis, and any adjustment to the basis, and any adjustments to the basis, of property held less than 12 months and, if available, the cost or other basis of property held 12 months or more. This requirement, however, doesn’t apply to publicly traded securities.

**The cost or basis of the property must be included on form 8283 p. 2 Part 1 Boxes (d)(e) and (f). The recent court case Loube v. Commissioner January 2020 the taxpayer did not fill out this portion of the 8283, along with other issues with the form and appraisal. Clients should work with their tax professional to ensure these fields are completed with accuracy.**

Deductions Over $5,000

You must have all of the requirements above as well as a “Qualified Appraisal” by a “Qualified Appraiser,” who uses correct valuation methods.
The IRS Appraisal “Grouping” Requirement

It appears to be typical of any IRS codification or procedural direction, that the end result must be confusion. Obtaining clarification may involve hours of wait-time to speak to a real person or a head-first dive down the rabbit hole of reading scholarly articles on a CPA or tax attorney’s interpretation of said codification. When it comes to appraisers, they may inadvertently interpret IRS publications incorrectly and expose the client to risk for an audit and the subsequent loss of their non-monetary charitable contribution deduction due to failure to procure proper documentation.

Thankfully, the American Society of Appraisers (ASA) recently acquired clarification from the IRS on the publications leaving enough expansive vagary through which the metaphorical truck could be driven.

1. If a client donates 2 dissimilar items, do they need a separate appraisal for each item?
   
   (A) Per the IRS, you do not need separate appraisals, though you will need to have separate “chapters” or “sections” for each item. However, you do need two separate 8283 tax forms.

2. If a client makes several donations under $5,000 in a year, do they need an appraisal for all of the items donated?
   
   (A) If you have made several donations under $5,000 of dissimilar items, you do not need an appraisal. On the other hand, if you have made several donations under $5,000 of similar items and the aggregate exceeds $5,000, even if these donations were made to several different charities, the IRS does require you to obtain an appraisal for all similar items.

3. Do you need separate appraisals and/or 8283s if you donate to several different charities?
   
   (A) You do not need a separate appraisal for donations made to several charities, however, you will need an 8283 for each charity.

For a small measure of clarification on what should be considered “similar”, IRS publication 561 states the following:

“The phrase “similar items” means property of the same generic category or type (whether or not donated to the same donee), such as stamp collections, coin collections, lithographs, paintings, photographs, books, non-publicly traded stock, non-publicly traded securities other than non-publicly traded stock, land, buildings, clothing, jewelry, furniture, electronic equipment, household appliances, toys, everyday kitchenware, china, crystal or silver.”
The strategy to employ appears to be: When in Doubt, Sort it Out! If donating furniture from the home and you have any inclination of donating furniture later in the year, fully document the donation. Documentation includes photographs clearly showing condition of the material and a description of the type and brand of furnishings. At year-end, sort through donations and determine if the aggregate of any one category exceeds the $5,000 value level. With proper documentation a qualified appraiser will be able to produce an appraised value to file on form 8283 for each charity to whom you gave.

Document Eleven

Like-Kind Exchanges as a Waste-Diversion Tool

The Tax Cuts and Job Act (TCJA) implemented changes across the board on asset treatment within business taxation. A “like-kind exchange” or “1031” based on IRC Section 1031 precludes a taxpayer from recognizing a gain on the sale of a business asset if they purchase a replacement business asset. The basis of the old asset is rolled into that of the new and a gain on the sale of the original asset is deferred until the replacement asset is sold. This is a way for businesses to avoid paying taxes on the sale of assets if a replacement is purchased.

Prior to the TCJA, this treatment was available for both personal and real property. The TCJA now limits this to only real property. This provision triggers the recognition of “boot” in the sale of real property if any personal property is included in the sale. “Boot” would be the personal property attached to the real property and is considered taxable in the sale, even if replacement real property is purchased. For example, if an apartment building is sold but the building has furniture, fixtures, appliances or any other personal property, taxes must be paid on the value of that personal property or “boot.”\(^{13}\)

Two proposed ways of mitigating the taxation of the gain on the sale of attached personal property include: abandonment and charitable contribution. The Journal of Accountancy provides an excellent evaluation of the new law.\(^{14}\)

Abandonment

Using the example of the apartment building, a taxpayer may find it beneficial to call in a demolition crew to gut the interior of all personal property prior to sale, abating the taxable gain. A demolition crew may be able to come in and clear out the interior of the buildings for much less cost than the tax on the gain. However, we suggest this is the option to be avoided.

Charitable Contribution

The taxpayer could instead contract to remove all personal property and donate it to a nonprofit or governmental entity (public schools, colleges, parks and recreation departments, etc.) Nonprofits providing resale of interior items to low-income communities or who donate items to the underserved are prime candidates for these donations. If the business has not fully depreciated these assets, they may be able to have the items appraised and deduct the Fair Market Value as either an itemized deduction on the 1040 if they are a pass-through entity or as a charitable contribution on form 1120 if they are a corporation. To ensure the appraised value deduction can be taken, a nonprofit must use the donations within their “related-use” provision.

\(^{13}\) https://www.irs.gov/newsroom/like-kind-exchanges-now-limited-to-real-property

\(^{14}\) https://www.journalofaccountancy.com/issues/2019/nov/like-kind-exchanges-personal-property.html
If material is donated to an organization not using or selling the items as part of their mission, the subsequent resale by the nonprofit could trigger a reduction in appraised value retroactively to the taxpayer.\(^{15}\)

The Green Mission Inc. specializes in waste diversion including producing appraisals for clients able to take the tax deduction. Additionally, we offer waste-diversion management services and can help clients find nonprofit and governmental entities in need of the property donations. We work diligently to ensure the cost of waste diversion is commensurate or less than demolition and ensure our client’s timelines are not delayed by choosing to donate over demolish. We have front-loaded our research nationwide regarding nonprofits and governmental entities in need of donations and can provide lists to the client so they can choose to whom they would like to donate. We supply logistics for moving, manage the timeline and ensure our clients are satisfied with the efficiency of our processes. Most importantly, we are diverting hundreds of tons of waste from the landfill while helping to supply the donations which organizations need. Our processes can help save localities funds by using donations for items that would have otherwise come from their operating budget. Organizations such as shelters for abused women and children, job-training facilities, schools for children with special needs and many other worthy missions have been helped by our waste diversion efforts. Perhaps the best part of our jobs are seeing the satisfaction both our donating clients and recipient organizations experience when we connect the two, divert waste and help them fulfill their missions.

\(^{15}\) https://www.irs.gov/forms-pubs/about-form-8282
Charitable Donations of Inventory and Other Property
IRS §170 and how corporations can support community care initiatives

IRS §170 details charitable contributions as taken by individual and corporate taxpayers on their income tax returns. A provision outlined within this section allows the donation of inventory by a corporation to a qualified organization, usually a 501(c)(3) or a private operating foundation (not a private foundation.) Additionally, the donee organization must use the inventory or property solely for the care of the ill, the needy or infants. Finally, the donee cannot sell or transfer for money, other property or services. It must be given away to those in need. In practice, this also requires the donee to ensure those receiving the goods do not turn around and sell them on second-hand sites like e-bay. In return for these donations, the corporation can take advantage of an enhanced deduction—a deduction of its basis for the inventory, plus one-half of the property’s unrealized appreciation, not to exceed twice the basis of the property. This enhanced deduction is only available to a C-Corp as other entities are limited to the lesser of the cost basis or Fair Market Value.  

The Green Mission Inc., was very excited to speak with Greg Bales of Morning Day Community Solutions. They operate a Framing Hope Warehouse, which supplies home products to over 250 nonprofit members in South Florida, including local veterans. Donations of home products and supplies are received from Home Depot stores as well as other retailers within the Broward, Palm Beach and Miami-Dade counties. Excess inventories from retailers has ended up in landfills in the past but programs like this, divert these products to where they are critically needed.

Programs like this impede the practices of some retailers of throwing out excess inventory including the example of Amazon, which was found to have discarded 293,000 items to the dump over a nine-month period in the U.K. and France. Some retailers find it more expensive to return and reshelv inventory and may choose to toss it rather than deal with the costs of resale. Ensuring corporations are educated as to this option of donation will not only provide tax incentives with the enhanced deductions but will provide critically needed materials to those in need.

However, certain regions sometimes end up with excess inventories of goods they cannot possibly give away within their community and sometimes require disposal. If organizations could find an effective medium of communicating their local recipient’s needs as well as letting other organizations know the excess inventory accumulated, disposal of inventory could be minimal. Small organizations might not have the exposure or ability to communicate their needs to donating corporations—receiving minimally, while others are well-known and receive too much. Organizations could work together in regional hubs to transfer materials to other qualifying organizations and the maintenance of IRS requirements would be met because the inventory would not be sold—just transferred from one qualifying organization to another.

16 https://www.law.cornell.edu/uscode/text/26/170
17 https://www.morningdaycommunitysolutions.org/about-us/
Document Thirteen

Tax Incentives for Deconstruction or Reuse Material, and Personal Property Donations
   For the Individual Taxpayer

Current tax law allows individuals to deduct the Fair Market Value of non-monetary charitable contributions. Materials salvaged from a building structure as well as personal property donated to a nonprofit 501(c)(3) or government entity like schools, colleges or parks and recreation systems, may qualify to be deducted.

The IRS provides a list for reference in determining if an organization is qualified to receive a charitable contribution: www.IRS.gov/TEOS

Let us take a deeper dive into the IRS codifications to determine if a deduction may be taken based on the tax situation of the individual.

Please reference: IRS Publication 526 Charitable Contributions

Individuals may claim a tax deduction for non-monetary charitable contributions on their Form 1040 Schedule A “Itemized Deductions.” To take charitable contributions of either a monetary or non-monetary nature, an individual must itemize deductions. With the passage of the Tax Cut and Jobs Act (TCJA), the Standard Deduction has been substantially increased ($24,000—Married, $18,000—Head of Household and $12,000—Single.) This means that an individual’s itemized deductions must exceed the Standard Deduction.

What comprises the form 1040 Schedule A?

➢ Medical and Dental Expenses—These expenses can only be taken to the extent that they exceed 10% of a taxpayer’s Adjusted Gross Income. If Adjusted Gross Income is $100,000, for example, only expenses above $7,500 would be deductible.

➢ Taxes You Paid—This deduction was gutted by the TCJA. These taxes are commonly referred to as SALT (State and Local Taxes.) This amount has now been capped at $10,000. This means if you paid $8,000 in state income taxes, $8,000 in real estate taxes and $1,000 in car taxes (personal property taxes), your total of $17,000 in SALT taxes is capped at $10,000. The taxpayer permanently loses the $7,000 in deductions.

➢ Interest You Paid—This deduction is for home mortgage interest. If the mortgage was entered into during 2018 or later, the amount of interest deducted can only be taken for up to $750,000 of the total mortgage amount. Mortgages entered into prior to 2018 are capped at $1 million.

➢ Gifts to Charity—Monetary contribution limits to qualified organizations have been increased to a limit of 60% of AGI. Non-monetary contributions (like deconstructed materials and personal property) are limited to 50% of AGI. However, in both cases there is a five-year carryforward for any amount not used.

➢ Casualty and Theft Losses—These are now only allowed for losses from a federally declared disaster area.
➢ **Miscellaneous Itemized Deductions**—These were allowed prior to the TCJA implementation and were allowed for various deductions like work-related expenses for w-2 employees subject to a 2% AGI floor. These are now gone.

In dissecting the deductions above, the TCJA has set up charitable contributions as one of few malleable areas left on the Schedule A, setting it up as a great tax planning strategy and tool. This tax planning strategy’s importance is even more pronounced when we examine another provision of the TCJA, which is beneficial to the individual taxpayer—the removal of the Itemized Deduction phase-out. The Itemized Deduction income-based phase-out of certain itemized deduction has been removed until 2025. Prior to the removal of this provision, some Itemized Deductions were subject to limitation if AGI exceeded $313,800 MFJ, $287,650 HOH and $261,500 S. With the removal of this limitation, taxpayers can implement smart donation strategy to maximize tax benefits while helping nonprofits and government entities perform their missions and help those within our communities with the greatest need.

For non-monetary contributions of $5,000 or more, a qualified appraisal is required by a qualified appraiser, per IRS regulations. The taxpayer is generally entitled to deduct the Fair Market Value of the materials or property.

*Please reference IRS Publication 561*

However, sometimes the Fair Market Value may be limited to the “basis” in the property. In tax parlance, basis generally means the capital investment in property for tax purposes.

*Please reference IRS Topic No. 703 Basis of Assets; IRS 551 Basis of Assets*

Typically, the basis of an asset is its cost to you—how much cash, debt obligations, and/or other property or services you paid. However, if the asset has been depreciated by a taxpayer in the course of its business use (for pass-through entities) the donation value is limited to the adjusted basis of the asset. If a taxpayer purchased a refrigerator for $10,000 to use in their commercial kitchen and in year 3, $4,000 has been taken in depreciation. The basis of the asset is now $6,000. If the Fair Market Value is determined to be $7,500, the taxpayer is limited to a charitable contribution deduction of $6,000. Generally, the Fair Market Value of long-term assets can be taken if the one-year holding period is met.

Another important tax consideration pops up for real estate investors vs. real estate dealers donating deconstructed materials and property taken from these assets as pass-through entities. Investors purchase with the purpose of holding and producing a capital gain, hence they are allowed capital gain tax treatment. Dealers purchase with the intent of making frequent or continuous transactions and income is considered ordinary income and capital gain treatment is not available.

In any non-monetary donation scenario, an individual must conference and rely upon the advice of their CPA, tax attorney or tax professional. We can point our clients to the IRS codifications but it is up to their tax professional to determine if the donation is allowable given the individuals unique tax situation.
Document Fourteen

Tax Incentives for Deconstruction or Reuse Material, and Personal Property Donations

For the Corporate Taxpayer

Not only are provisions in place for individuals to donate materials and personal property to qualified nonprofits and government agencies but favorable tax provisions are in existence for corporations.

Please reference IRS Publication 542 Corporations

A corporation can claim a deduction for charitable donations in cash or other property to a qualified organization.

For a list of approved charities please see: IRS.gov/Charities

If the Cash Method is used for revenue and expense recognition, the donation is taken in the tax year in which it was paid. For corporations using the Accrual Method, the deduction can be taken in the year in which the BOD authorizes the donation.

In general, a corporation cannot deduct charitable contributions that exceed 10% of its taxable income with a 5-year carryforward. Like donations for individuals, adequate documentation must be retained within corporate records.

Taxable income does not include the following:

1. The deduction for charitable contributions.
2. The dividends-received deduction.
3. The deduction allowed under section 249 of the Internal Revenue Code for bond premium.
4. Any domestic production activities deduction.
5. Any net operating loss carryback to the tax year.
6. Any capital loss carryback to the tax year.

Just like individual taxpayers, a corporation must obtain a qualified appraisal for property claimed in excess of $5,000 value. When the value exceeds $500,000 the appraisal should be attached to the return.

The corporation must reduce the contribution value by the sum of “the ordinary income and short-term capital gain that would have resulted if the property were sold at its Fair Market Value; and for certain contributions, the long-term capital gain that would have resulted if the property were sold at its Fair Market Value.” The long-term capital gain applies if a corporation donates to an exempt organization who is not going to use the property to further their basis for its exemption (typically described as their mission.) This also applies when donations are made to certain private foundations with the exception of a stock donation. Finally, this applies when certain intangible assets (patents, trademarks, etc.) are donated.
Special Treatment for Inventory Donations:

There is a great tax planning strategy for corporations able to donate inventory. They may be able to claim a deduction equal to the lesser of:

1. The basis of donated inventory or property plus half of the inventory’s or property’s appreciation (gain if sold at FMV on date of donation), or
2. The basis of donated inventory or property plus half of the inventory’s or property’s appreciation (gain if sold at FMV on date of donation), or

Fully Depreciated Donated Assets:

Please reference IRS Publication 551 Basis of Assets and IRS Publication 544 Sales and Other Dispositions of Assets

In many cases, assets of a corporation may be fully depreciated at the time of donation. As set forth by the IRS, the donation value is limited to the lesser of the FMV or the basis. In this case, the basis could be zero. So, why would a corporation still consider a donation?

1. Certain deconstructed materials from a corporate donation may not have been depreciated. For example, consider a hotel that is being renovated. The furniture may be fully depreciated but some of the building materials might not have been included on the balance sheet and could have inherent value to the nonprofit and the Fair Market Value could be deducted.
2. A corporation can seek LEED and Zero Waste environmental initiative certifications by deconstructing and donating rather than demolishing and trashing.
3. Videographers and photographers can document the donation process and advertising and marketing can be geared towards communicating that the company made a “Green” choice over demolition. Further, nonprofits can be included in interviews (with their permission) with reference to how those donations will be used towards fulfilling their missions.
Heightened Appraiser Standards: Executive Summary

The Deconstruction of buildings and donation of materials to nonprofits or government entities has been occurring for approximately 25-years. The donations are typically substantiated by procuring a “qualified appraisal” from a “qualified appraiser,” and by the submission of IRS form 8283 for donations exceeding $5K in Fair Market Value (FMV.)

There is a common belief that widespread abuse of these tax deductions exist due to inflated appraisal valuations. When audited, the taxpayer bears the brunt of these abuses in lost deductions and possibly in underreporting penalties and fines, as well.

Industry standards must be heightened and coordinated among various stakeholders including major appraisal organizations as well as all appraisers who should commit to developing and reporting their opinions, analyses and conclusions in compliance with USPAP—the only nationally recognized standard for personal property appraisers in the US.

This document seeks to detail propensities for abuse as well as introduce heightened standards for appraisers and appraisals. Appraisers education and relevant experience as well as demonstrating competency. Practicing appraisers must be searchable to determine their qualifications in a national database. The coordinator of the database is yet to be determined. Those choosing to perform deconstruction/reuse appraisal assignments must commit to becoming trained in core appraisal techniques and methodology and to developing and reporting their value opinions in accordance with the performance and ethical standards of USPAP.

Inflated values often result from an untrained appraiser making use of an inappropriate approach to value. Specifically, the appraiser often mistakenly makes use of the cost approach instead of the sales comparison approach. Details of how appraisal inflation results from using the cost approach is explained.

Finally, collusion between appraisers, deconstruction contractors and nonprofits must be guarded against. Inflating values to encourage donations to nonprofits, in order to charge a higher appraisal fees or to close more deconstruction contracts could result in more audits and penalties for taxpayers, more court cases, decreases in deconstruction projects and, most importantly, decreases in C&D waste diversion from landfills.
Submission of Advisory Opinion for Heightened Standards: Deconstruction or Reuse Industry Appraisers

Introduction

The role of a deconstruction/reuse materials appraiser is unique within the varying appraisal disciplines. The class of “assets” to which it assigns a value, both temporally and aesthetically are of an entirely different variety than appreciating assets—typical of other appraisal industries. The deconstruction and donation market emerged approximately twenty-five years ago and essentially values what the lay-person would refer to as “junk,” and depreciating junk at that. Utilizing individual income tax form 1040 or corporate income tax form 1120 with the accompanying form 8283 for Noncash Charitable Contributions traces its origins circa 1995. Since then, the market of appraisers has grown at a snail’s pace with an estimated number of appraisers totaling 17-20.

Like any industry dependent on appraised values, the existence of occasions and propensity for abuse should be a foregone conclusion. The deconstruction-donation-reuse economy has felt reverberations from alleged abuses, especially within the last decade. The blame for the alleged abuse has been laid equally at the feet of the triad encompassing the three points of the deconstruction/reuse industry: the appraiser, the donee and the deconstruction contractor. The stipulated standards below promulgate more industry specific and applicable standards for the deconstruction/reuse appraiser with the understanding additional work must be completed to ensure the other two components of the donation triad are adequately regulated. The regulatory body assigned to mitigate abuses and fraud is yet to be determined.

Our group chose to tackle these proposed changes as members of the deconstruction/reuse appraisal industry. Self-promotion or marketing of our businesses is not our motivation. We are dedicated to the waste-diversion mission of our organizations and view appraisal fraud as a critical threat that must be addressed head-on. Only industry members would relegate the time and resources necessary to attempt to fix a broken system.

Section One:
Ethics Rules and Requirements

The Ethics Rule found in the USPAP 2020-2021 edition adequately covers all observed and hypothetical ethics abuses within the industry with regard to the appraiser’s responsibilities, in general. We will discuss further ethical rules outlined by the ISA as well as those we suggest, specific to the industry. USPAP covers not only ethical standards but also performance standards found in Standards 7 and 8 for personal property appraisers.

Section Two:
USPAP Adherence

USPAP adherence must be followed instead of should be followed as with other personal property appraisal requirements. USPAP Advisory Opinion 21, section 5, “When an individual’s appraisal expertise and reputation for providing services without bias induce the client or other intended users to select the individual to provide a valuation service, there is a justifiable expectation that the evaluation service will be performed in
compliance with USPAP.” Any deconstruction/reuse appraiser chosen by a client is obviously due to these factors and follow USPAP. Additionally, deconstruction/reuse appraisals are always produced for income tax deduction purposes with the IRS potentially reviewing the appraisal, along with the client. The IRS, as a recipient, demands the appraisal follow USPAP.

David J. Maloney, AOA, CM authored *Appraising Personal Property: Principles & Methodology*. The 9th edition includes the following:

**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. 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 Intended 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.

From Maloney’s book: References to Appendices in the footnotes refer to the appendices in my book:

Treasury Regulation §1.170A-17(a) [21] 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

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[19] 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.

[20] 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).

[21] See Appendix R Treasury Regulation §1.170A-17(a) Definition of Qualified Appraisal
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.

**Section Three:**

**Listing of Deconstruction/Reuse Appraisers**

A list of all personal property appraisers in the United States offering deconstruction/reuse appraisals should be maintained on a designated website. The organization maintaining the website is yet to be determined but a natural fit might be one of the appraisal organizations or The Build Reuse Association, an industry trade group. ISA, ASA and any other personal property appraisal organizations should be encouraged to provide a listing of “Qualified Deconstruction/Reuse Appraisers,” on both their own sites and on a common site. The definition of a qualified deconstruction/reuse appraiser must be created by members of the industry. An undergraduate or graduate degree in a complementary field of study like accounting, finance, construction management, environmental studies or civil engineering would provide a solid educational framework on which to learn the additional skills necessary to appraise deconstructed property. A link to each appraiser should include the following information:

1. Name of appraiser and company
2. Are they a sole practitioner or do they have a company with support staff?
3. Is the company a family-owned and operated business or is it a company with unrelated employees and owners?
4. What level of education and experience does the appraiser have along with the business owner and staff?
5. What educational or vocational institutions did the appraiser attend, what were their graduation dates and what was their concentrated area of study or major?
6. To what appraisal organization(s) does the appraiser belong? If it is an organization besides ASA or ISA explain why they chose not to be a member of one of the two organizations with deconstruction or reuse material appraisers who sponsor The Appraisal Foundation.
7. What Continuing Education courses has the appraiser taken and what were the dates of the coursework?
8. What methodology do they use in determining valuations? If it is not the Sales Comparison Approach (SCA) please provide substantiation as to why that methodology is not used.

9. Does the appraiser use New Construction Estimating Software?

10. Have any appraisals produced by the appraiser or their company been deemed “unqualified” in court cases?

11. A timeline of the appraiser’s work experience including detailed descriptions of positions held, responsibilities and variety of industries within which they worked.

12. Have they been peer reviewed and if so, when was the review and what was the result?

13. Can they provide a redacted sample of a recently completed deconstruction/reuse material appraisal?

14. What is the total number of appraisals completed independently? (allowing for administrative assistance)

15. Vetted client testimonials

Additionally, the public needs to be aware of appraisers deemed unqualified by the IRS. This is a difficult task because the burden of an appraiser’s over-valuations are generally suffered only by the taxpayer. When they are audited and their tax deduction disallowed, the appraiser and nonprofit are not notified. Appraisal organizations need to work with the IRS to search the EIN of appraisers for which the deduction was disallowed due to the appraiser being deemed unqualified. Known cases of unqualified appraisers need to be recorded and kept in a searchable database so consumers have some protection from contracting with unethical appraisers or appraisal companies. U.S. Code § 170. Charitable, etc., contributions and gifts states appraisers may be unqualified if prohibited from practicing by the IRS. However, this list is not easily obtained by those within the industry much less from the taxpayer/appraisal consumer.

Section Four:
Higher Education and Testing Standards

While a college degree may not necessarily correlate with an increased ability to produce qualified appraisals, adequate industry-specific education must be attained along with passing a comprehensive examination specifically based upon deconstructed material and personal property commonly associated with individual or corporate donations. This would include home and business furnishings and fixtures.

1. ASA and ISA have allowed the grandfathering-in of appraisers without a college degree prior to 2018. We would stipulate some basic college coursework in industry related classes is requisite to prior to consideration as a qualified deconstruction/reuse appraiser.

2. Due to the materials being appraised, appraisers qualified to value art, collections or gemstones most likely are not suited to valuing deconstructed materials, furnishings and fixtures. Appraisers from other disciplines must complete adequate coursework prior to completing deconstruction/reuse appraisal engagements.

3. A licensing exam must be established and administered by a neutral third party testing site requiring completion onsite to reduce instances of cheating, as has been alleged for off-site appraisal examination
work. Each state should adopt the exam and require licensure. Taking an example from another profession, a CPA takes an exam by state and pays each year to renew their license, they still can join and participate in CPA organizations like AICPA and VSCPA and pay annual dues. The same model could exist for a deconstruction/reuse appraiser and appraisal organizations like ISA and ASA. Those of us within the industry can provide, within the next six months, necessary areas of testing, create a study guide and best practices content and aid with this effort to create a comprehensive exam, which should be difficult enough to weed out those lacking the competence to pass.

Section Five:
Valuation Considerations Unique to Deconstruction/Reuse Appraisals

Of the three appraisal valuation approaches: Sales Comparison, Cost and Income approach, only the Sales Comparison Approach should be employed as the other two approaches do not result in accurate valuation of used materials. However, in rare cases, a hybrid methodology using Sales Comparison and Cost Approach could be used for materials of very high value that rarely hit the resale market. Thorough appraiser research could determine a valuation pulling very close comparable sales points of similar assets while considering the price of a new asset to determine if the comparable sales point should move upward or downward to capture accurate valuation. Adjustments in market data might be required in order to account for differences in relevant characteristics between the subject property and the comparable properties. An expensive kitchen cabinetry set in a very high-end home being donated may rarely hit the resale market. The only comparable sale might be of a much lower quality. Using the price of a new kitchen set and applying the normative depreciation trend that has been observed across the industry on kitchen cabinetry resale would be appropriate. Like every aspect of deconstructed material appraising, thorough and exhaustive research must be utilized to arrive at accurate fair market valuation.

Typically, deconstructed materials depreciate rather than appreciate like other personal property such as art or a stamp collection. Just like driving a new car off the lot causes a precipitous drop in value, used construction material values cannot be derived by using the cost of new materials and applying depreciation. It is common practice for some appraisers to use the original cost of new materials and then apply depreciation to arrive at used material costs. This is often accomplished with software like RS Means, which is used within the construction industry to develop bids using regional new material cost data. Using this software, or other new material costing software, almost always results in an inflated valuation. Construction material cost by region at brand new prices should rarely, but most often never, be used at a starting point in determining re-sale of the materials. Utilizing inappropriate tools for determining value strikes at the performance standards mandated by USPAP and does not display competency in performing the appraisal.

A recently decided case regarding a deconstruction appraisal deemed all three appraisals produced by the appraiser “unqualified.” The reasons cited for one of the appraisals was due to the cost methodology being employed resulting in an inflation double the estimate of the nonprofit concerning what they were able to salvage in deconstructed material.

Sales Comparison Approach—Under this approach, all comparable sales must be at arm’s-length with a willing buyer and willing seller without compulsion to buy or sell with knowledge of all the relevant facts. However, numerous variables must be considered when trying to make the sales comparison approach fit the
deconstructed material model. Many regional markets lack sales of materials that could fall under the requirements of sale listed above. Additionally, there might not be a sufficient number of comparable sales from which to draw a comparable value that is relevant. Additionally, the definition precludes the appraiser from using price-points from nonprofits selling for very low prices to the community as part of their mission or those who give away their materials. Adding to the complexity, some materials may not sell during a given time, hence lessening their chance of being sold at all. Market saturation may also occur in locales where deconstruction ordinances are enacted and the resale market is flooded with materials, driving down the value.

1. Appraisers should find relevant sales data employing some of the following methods:

   a. Real-time sales data is often captured through barcoding and online uploads from some nonprofits and are available to the appraiser.

   b. The appraiser should start their market research regionally and look at the market where the specific materials will be donated. They can call retailers for resale comparable price points and look online but need to ensure the prices offered online are what is actually paid when sold. If the immediate region does not offer a resale market, they should expand the distance radius slowly. If a resale market does not exist in the donor’s location, the appraiser should research markets with a similar cost of living, socioeconomic statistics and also examine potential market saturation before determining if the market is a suitable comparison.

   c. Price-points including compulsion to sell must be utilized when a resale market does not exist in a regional area where the expected donation occurs even though this goes against the definition of Fair Market Value. If valuations for materials do not exist on the resale market, or if there are not a sufficient quantity of price points, there may not be a market for those products and the discounted prices must be used. The Principle of Substitution found in ISA Core Course in Appraisal Studies Chapter 5 would lead an appraiser to utilize comparable sales of nonprofits selling at a deep discount if this is the only market indicators available or if these are the best value indicators and higher values are outliers.

   d. Material selling prices of inventory held greater than sixty-days and subsequently discounted will be included as price-points as this may signify a trend in decreased demand or increased supply, creating an orderly liquidation market.

   e. Qualitative ranking of materials should be an internal tool used by appraisers. They should conference closely with deconstruction contractors and nonprofits to determine the most valuable types of materials as well as their attributes. Example: wood—painted, unpainted, type, cut; brick—mortar free, type, quality, quantity of one type, etc.

Future innovations to the deconstructed material appraisal standards could include the following endeavors to capture and share best-practices and real-time valuation data:
a. Appraisers could make their price points and references available as part of a new continuing education pursuit, uploading values to an online data capturing portal. An online and robust deconstruction/reuse material database of values, updated in real-time would be ideal. The idea would be a model like the tables found on Goodwill or The Salvation Army’s websites. For simple used construction material in good condition, there is a set value. Not only would this make portions of an appraisal simpler to perform, it also removes items that can be manipulated by inflated values. A piece of used plywood would have a set valuation.

b. Students and others studying to become appraisers can research price points by region and information and can be uploaded after being reviewed and included in searchable form.

2. In collecting relevant price-points, the appraiser must ensure the comparable sales are from a relevant geographical region and that they occurred within a limited time frame, ideally no greater than 60 days, from the date of valuation.

a. The appraiser should collect data points within their work-files and calculate the range, median, mode and mean. Proper statistical valuations should be performed to determine the accurate valuation to use after analyzing this data. If a comparable on the high end of the range is used, the reasoning must be documented substantiating this choice along with a choice on the low end.

i. Utilizing basic statistical models like this is as simple as recording values in Excel and running the range, median, mode and mean. Including the spreadsheet within both work-files and within the audit report appendix is necessary because both the client and IRS reviewer have immediate access to the data. The appraiser should also include links and pdf copies to the comparable sales chosen for further substantiation. The definition of the basic statistical analysis tools are:
   1. Range—The area of variation between upper and lower limits on a particular scale
   2. Median—Denoting the middle term (or mean of the middle two terms) of a series arranged in order of magnitude
   3. Mode—The value that occurs most frequently in a given set of data
   4. Mean—The value obtained by dividing the sum of several quantities by their number; an average

ii. Statistical modeling is not always necessary, however. There are certain materials with inelastic price points around the country. Plywood may sell for very similar prices nationwide and research and comparable sales price points may not need to be gathered. Appraisers, conferencing together to establish best-practices, can help determine what materials require more research and statistical modeling and which do not. As industry leaders, we would like to work towards producing a real-time list of deconstruction/reuse materials to include price elasticity, regional availability and current market saturation. This can be developed and studied by those entering the deconstruction/reuse appraisal profession as part of the requisite testing material.
b. Best-practices suggest appraisers should keep adequate work-files. Information typically relegated to work-files, including the statistical analysis above, should be included within the appraisal to ease review by the taxpayer, nonprofit and the IRS as part of the appendix.

c. If exact matches for materials cannot be found, similar item comparable sale’s price points could be used but only if the appraiser demonstrates the similarity is requisite in their argument for applying the same value. Documentation of their research and reasoning within the work-files and the appraisal is necessary.

3. Most deconstruction/reuse material depreciates in value compared to personal property such as art, gems and collections. However, fads or trends may make some deconstructed materials higher in value than new materials. An example of this is in the current trend of using old hardwood in homes and restaurants. In these cases, the higher values should be substantiated and notated within the appraisal. The Highest and Best Use Principle outlined in ISA Core Course in Appraisal Studies Chapter 5 allows the appraiser to choose higher values when they know the material will be sold at a premium due to the fads or trends increasing demand for these items. However, the term “Highest and Best Use” is not the best terminology with regard to appraising personal property. Please see the exert below from Mr. Maloney’s book. The appraiser must watch market supply reflected in lowering prices should the market become flooded with inventory. The condition of the material is also extremely important to consider. The IRS requires the donation of household goods to be in “good” condition in order to take a tax deduction. The same premise should apply to material donations. Plywood that has mold and water damage should not be included in an appraisal’s valuation. We will discuss substantiating the quality and quantity of material in a later section.

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.[22]

4. Technological changes must be considered when deconstruction/reuse includes appliances. Many older appliances are worth little to no value due to obsolescence and energy inefficiency.

5. As deconstruction ordinances start becoming law in various states, the appraiser must watch for market saturation for certain types of deconstructed materials. If a market is saturated and inventories are not moving from resale vendors, the deconstructed materials may have very little value. Political forces moving towards various state and local deconstruction ordinances need to remain on the appraiser’s radar.

Section Six:
Value Creators

1. The requirement to choose the “most common market” may require a geographic and regional stretch and could result in an inaccurate valuation. The appraiser must use the most common market, which must be retail, to the end consumer in the property’s current form. The market selection should follow guidelines found in ISA Core Course in Appraisal Standards Chapter 2:

[22] 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.”
i. Property condition  
ii. Property quantity  
iii. Property quality  
iv. Urgency to sell  
v. Availability of financing or warranties  
vi. Access to the market

From Mr. Maloney’s book:

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 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.[23]
  
  - 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

[23] 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.”
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**[^24]. In economics, Veblen goods are a theoretical group of commodities for which people's 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 people’s 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 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 Elmo’s?

- **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.

[^24]: The Veblen effect is named after the economist Thorstein Veblen (1857-1929).
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

Market research set forth in ISA Core Course in Appraisal Standards Chapter 10 should be employed including the determination and documentation regarding existing markets. Documentation should be included in both internal work-files and within the produced appraisal document as an item in the appendix:

i. Which market types, and which examples of those markets did you explore? The appraiser should include information here if they were required to use nonprofits selling at greatly reduced prices or if orderly liquidation market values were used.

ii. Which typical markets were excluded and why? Markets for new materials would be an obvious exclusion.

iii. What was the condition of the market? Was it stable, rising or falling? Information should be included here regarding higher-valued items due to trends and fads as well as market saturation due to deconstruction local ordinances, or other reasons.

iv. Who are the typical buyers for the property? This could include inner city residents purchasing from a nonprofit, high-end restauranteurs seeking aged hardwood or new building contractors seeking to build sustainably by using used materials.

Values should also be evaluated and the following questions answered through documentation within the work-files and appraisal documents in the appendix:

i. What comparable sales were discovered? Document the regional location of sale, date of sale and tool used to determine sale (internet, phone call, catalog listing, etc.)

ii. Which comparable sales were used and why? This is especially pertinent if the appraiser uses a value on the high or low end of a range of values. If the product will most likely demand a higher price due to high demand, this should be documented. If materials are
of such quality that the appraiser deems them to be sold at a very low price, their assumptions should provide enough detail to lay out their argument.

iii. Which comparable sales were rejected and why?

iv. Replacement costs, either new or comparable, should not be evaluated in deconstruction/reuse appraisals unless necessary due to lack of sales comparison data.

From Mr. Maloney’s book:

**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.\(^{25}\)

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)\(^{26}\)

2. The sales price “most frequently paid” and occurring most commonly is difficult to ascertain with limited comparable sales in the most common market.

3. The “ultimate consumer” of the materials might well be individuals and communities the nonprofit serves through selling materials at a deep discount or giving them away. This presents a challenge when researching comparable sales but cannot be ignored in valuation when these are the only available data points.

4. The comparable sale to have occurred within a “reasonable time” needs to preclude materials not turning over within inventory for a set period of time—6 months or longer. An orderly liquidation market then exists and comparable sales price points will be much lower.

5. Scrap or salvage value needs to be considered if the materials final end use does not exist and they will be recycled. The value of these materials would be the current FMV of recycling revenue for the specific type of material.

6. Future degree of desirability would rarely apply to deconstructed materials. Most material value will depreciate. The exception would be for antique fixtures or trend or fad materials valued higher.

\(^{25}\) See DEFINITIONS section of USPAP for definitions of Cost and Value.

\(^{26}\) See the below Chapter 2 section entitled Replace\(\text{ment Cost} + \text{Judgement} = \text{Replacement Value}\)
7. The appraiser must exclude “marketable non-investment property” as outlined in ISA Core Course in Appraisal Studies Chapter 3. These are materials custom made for the original user that would have little to no use to another recipient. These should be valued as scrap.

Section Seven:  
Maintaining a Complete Inventory of Deconstructed/Reuse Materials

Using one nonprofit, Construction Junction (CJ) of Pittsburgh as an example of having a thorough process and adequate safeguards, we will review their processes.

1. An inquiry comes through an online donation form through CJ’s website requesting a salvage/deconstruction walk through to be performed by the nonprofit and their deconstruction team.

2. A member of CJ’s staff conducts a walk through with the aim of documenting the items in the building, capture building size and measurements, note building construction materials (brick, balloon frame, wood siding, etc.), obtain photos of interior rooms, count doors and windows, rough cabinet and appliance count etc. This is performed as a way to create a work plan for CJ but also to get the donor to sign off on what materials can be removed. All documentation is taken to CJ to determine the amount of the deconstruction bid.

3. The donor will want to ascertain the appraised valuation estimate to determine if they would like to move forward with deconstruction and materials donation.

4. CJ sends the full list inventory back to the donor and includes the bid to deconstruct. They also send the material list to an appraiser (so the bid is developed and presented before the appraiser gives an estimate.)

5. At this point the communication with the appraiser is with the donor (who expects the appraisal estimate). CJ does not share the deconstruction bid with the appraiser. This is a critical safeguard against the nonprofit and the appraiser colluding to charge a higher deconstruction bid with the understanding the appraiser will inflate the appraisal valuation to entice the client to deconstruct knowing they will receive a higher tax deduction. Hypothetically, the nonprofit could require a monetary pledge or donation to be made to their organization that is based on a percentage of the appraisal quoted value range.

6. Upon return of the information to the donor, they may decide that certain items on the list will not be donated. When the appraisal estimate comes back he/she may decide to not pay for deconstruction, but still wants to donate items or the donor could decide to deconstruct.
7. At the completion of the project CJ produces a detailed donation receipt that goes directly to the appraiser that verifies what was received and what it looks like upon delivery. In the process of salvaging/deconstructing certain items on the original list may have been taken off the list by the donor—the old, my long lost cousin wanted that built in cabinet—so that is off the list (although it was on the estimate list). The donor must understand that the original quoted appraised value range is contingent on the scope of the donation remaining constant. The appraised valuation will decrease if items are not donated for any reason and could increase if additional materials or property are donated.

8. CJ also sends a copy of this received material list to the donor as well and maintains a copy in their inventory records. This provides a critical safeguard as sometimes donors could request an appraisal to include valuations for materials and property the nonprofit never received. Hypothetically, nonprofits could potentially ask appraisers to include materials they never accepted (due to accidentally being thrown out, damaged, etc.) to keep the donor happy. The donor must understand that 1) The appraiser will not include phantom donations and 2) It is not in their best interest for the appraiser to do so, even if they were so inclined as they would be submitting a fraudulent appraisal valuation on form 8283 to the IRS. The overriding theme in all of these reforms needs to be to protect the taxpayer.

9. While we do not want to place the onus on the nonprofit to police appraisers and their valuations, having the donor sign off on allowing the nonprofit to receive a redacted copy of the produced appraisal could become an additional safeguard. The redacted appraisal would be received under the legal requirement that the nonprofit is just to use it for spot-checks of the donated materials. If the nonprofit sees a trend of certain appraisers grossly inflating values and or quantities, the nonprofit could choose to report the appraiser to one of the appraisal organizations or make the judgment that the appraiser is not ethical and could put their donors at risk. To maintain USPAP compliance, the appraiser could a) include the nonprofit as an intended user, b) ask the clients permission, or c) included a statement in the contract for services that states by signing the contract the client gives permission for the appraiser to share the appraisal with the nonprofit. After reviewing values or quantities, if they believe the appraiser has produced faulty valuations/quantities, they should not sign the 8283. Signing while knowing values/quantities are potentially fraudulent could be considered aiding and abetting the appraiser in committing fraud. The language within the 8283 does provide cover for the nonprofit from substantiating the fair market value. However, common sense should prevail and obvious and gross over-valuations should be identified as such to the taxpayer and appraiser by the nonprofit as an additional industry safe-guard.

10. Additionally, the appraiser can perform due diligence in the course of their work. If the appraiser suspects the nonprofit of not actually accepting all items for which the nonprofit signs off on the inventory, the appraiser could report their concerns to the nonprofit. If concerns are well-founded and the appraiser knows the nonprofit is fraudulently reporting materials not actually crossing their threshold, they must disengage and not sign the 8283. Because of the insular nature of the current deconstruction/reuse appraiser industry coupled with the low number of deconstruction/reuse appraisers nationwide, additional due diligence is necessary. Should the number of deconstruction/reuse appraisers increase and become less insular, due diligence like this will not be necessary and the appraiser may maintain their independence in the process.
11. The most recent deconstruction/reuse appraisal case referred to above, deemed all three of the appraisals produced by the appraiser “unqualified.” One of the reasons listed was because it lacked a complete inventory and photographs. A complete inventory of all appraised materials must be included in an appraisal or it will be deemed unqualified. Photographs must capture the quality and quantity of material and provide enough detail to substantiate the valuations. The nonprofit must start receiving copies of the appraisal to review to ensuring quantities and qualities of materials agree with what they received.

12. In the case of two or more nonprofits or government entities splitting an inventory, the inventory value assigned to each nonprofit’s donation must be broken out individually in separate inventories splitting the donation value proportionally to the materials received. The taxpayer must submit two 8283s in this case.

Section Eight:
Peer Review Requirement

Each appraiser should remit a redacted deconstruction/reuse appraisal to be reviewed by a body of their peers and/or an appraisal organization. If the current body of peers remains at a low number, as is found in the current industry, one of the recognized personal property appraisal organizations, ISA or ASA, should provide the review.

Section Nine:
Collaboration with Other Appraisers

The current trend is for deconstruction/reuse appraisers to be competitive and territorial. However, the taxpayer will receive a higher-quality appraisal if appraisers collaborate with other independent appraisers. Canadian taxpayers often employ two independent appraisers when appraising donations. The client can engage with a single appraiser and the appraiser can subcontract with another qualified appraiser. The collaboration will be referenced in the appraisal report.

Section Ten:
Related-Use Provisions for Nonprofits

Nonprofits must sell or give away materials as part of their related-use mission. Otherwise, the requisite form 8282 must be filed and the taxpayer may need to amend their tax deduction if the sale took place within three years. It is common practice in the deconstruction/reuse donation and appraisal industry that the nonprofit does not report subsequent resale of materials on form 8282 due to the impossibility of providing an accurate inventory of which materials from which donor were subsequently sold. For example, if a donor gave 300 pieces of plywood, the nonprofit would not be able to accurately file an 8282 when those particular pieces of
plywood were sold. This is another example of why deconstruction/reuse appraisals are much different than those for which many of the non-monetary charitable contribution tax laws were written. For example, if a taxpayer donates a painting to a museum with FMV of $80,000 and the museum then sells it for $50,000, they would need to file form 8282 and the taxpayer would need to amend their tax return to reflect the difference of $30,000 deduction value they lost. This would be because a museum is not in the ordinary business of selling paintings. It is not the appraiser’s duty to ensure donors are giving to non-profit organizations maintaining a related-use for the materials. However, they should help educate donors on ensuring they choose a nonprofit who does use the materials in a use related to their 501(c)(3) mission whether they sell or give away the materials.

**Section Eleven:**

**Appraisal Submissions with Signed Form 8283**

Taxpayers are not required to include a copy of the appraisal if the value of the donation is less than $500,000. We would encourage taxpayers to always include the appraisal when submitting their taxes. If the appraisal pdf is too large for e-filing software, the tax preparer can paper-file. This allows the IRS immediate access to the appraisal so they can determine methodology used, ensure a complete inventory is provided with each line of valued materials adding up to the total value, determine if adequate record keeping and photographs were included and allows the reviewer to submit it for audit should they see valuations not properly substantiated or that appear to be inflated due to either the IRS reviewer’s industry knowledge or common sense.

**Section Twelve:**

**Hypothetical Scenarios Leading to Potential Appraisal Inflations and how to Eliminate**

1. A nonprofit could email out project specifications to multiple appraisers initiating a bidding war as to who can provide the highest appraised value initial quote, hence winning the contract and collecting appraisal fees. The nonprofit may have a list of their “approved” appraisers.

   a. **Solution:** Instead, nonprofits can provide a list of appraisers or recommend a company they trust to behave ethically but it is inappropriate for a nonprofit to send out a project to numerous appraisers. The consumer can certainly “shop” appraisers and choose the one with the highest initial quoted value range. However, providing consumers with better information about appraisers, comprised within the questions in Section Three, will better educate the consumer and ensure they choose the best qualified and most ethical. Appraisers must have training in the core fundamentals of appraising and take the 15-hour national USPAP course while remaining current in the biennial USPAP update courses.

2. Using the Cost Approach inappropriately. Only the Sales Comparison Approach should be used when researching similar material re-sale price points in the applicable regional market, as discussed above, with rare exceptions requiring a Comparable/Cost hybrid model. To review, the Cost Approach takes the cost of brand-new materials and applies a depreciation rate to arrive at final value. This almost universally results in inflated values. RS Means, new construction costing software, is sometimes used in these appraisals and there is written documentation going back twenty years promulgating the
utilization of the Cost Approach from current nonprofit industry leaders. Unethical appraisers will easily manipulate data within the software to reach higher values for the client and nonprofit. For example, some appraisers may adjust depreciation years to achieve a higher valuation. They can subsequently charge higher appraisal fees knowing their appraisals will result in a much higher tax deduction.

a. **Solution:** Deconstruction/reuse appraisers must use the Sales Comparison Approach. When hybrid Comparable/Cost is utilized, written documentation must be included detailing why this approach was necessary. Appraisals utilizing solely the Cost Approach, should be deemed unqualified if they persist. When the Cost Approach is permitted, the appraiser must use depreciation rates typically used within the current market and for the current material.

Mr. Maloney’s ACV calculator is a valuable tool in determining accurate depreciation years, salvage values and maximum depreciation percentages. These methods are entirely different than those used by CPAs where depreciation is a tax-saving tool on the one hand and a way to tax gains on an asset with a decreased basis. To access the ACV calculator go to: 
http://www.davidmaloney.com/sign-in-p104/p104/

3. When the Sales Comparison Approach is used, the appraiser will find the highest valued and often inappropriate comparable sales price point, often outside the geographic region. Were the comparable sales to be graphed, the value chosen would be a glaring outlier. By refusing to calculate the range, mean, mode and median and then choose comparable costs based on simple statistical modeling, high price points can be cherry-picked. These prices sometimes pertain to sales not only non-geographically relevant but sales that took place years ago.

a. **Solution:** Appraisal organizations have suggested comparable sales can be used up to 2-3 years old but the appraiser should make every effort to find sales as close as possible to the donation date. The key to accurate and ethical appraisal practices is in the research methods of the appraiser. With that in mind, appraisers should document all relevant comparable sales discovered, run the basic statistical equations, and include all information within the work-files and the appraisal. Mandating inclusion within the appraisal will help combat fraudulent practices by making appraisers provide their data points for evaluation and scrutiny. The scope of work is dependent on the intended user. If the use requires extensive research or inclusion of comparable sale, then the added efforts are necessary.

4. Donee or client calls the appraiser and communicates the initial quoted value range is not as high as they would like and requests what can be done about this. Unethical appraisers could tack on value to make the nonprofit and client happy. Their motivation in keeping the nonprofit happy is to secure more appraisal referrals and pleasing the client can result in repeat business.

a. **Solution:** The ethical appraiser, when receiving this posed question should respond, “The value will increase if you have more materials or property to donate. If not, the value is already given and the request you made is the equivalent of asking me to commit fraud—blatantly.” This is in violation of USPAP Ethics Rule.
5. Nonprofits and existing appraisers steer new appraisal trainees to use the Cost Approach by providing sample spreadsheets demonstrating how the method works and training them in new construction software costing like RS Means.

   a. *Solution:* See Point #2 above

6. Nonprofits could request money from the donor of the deconstruction/reuse materials based on a percentage of appraiser’s initial quoted value range or correlating closely with it. This further perpetuates fraudulent practices from both the nonprofit and the appraiser by pressuring the appraiser to make those initial value range quotes very high. The appraiser then exerts pressure on their staff to inflate those initial quotes using whatever means possible.

   a. *Solution:* Appraisers must not knowingly work with nonprofits who base monetary contributions off of their initial quoted value ranges. Just like an appraiser cannot base fees as a percentage of their valuations, they must not work with nonprofits who do the same.

7. Monetary contributions listed above are represented to clients as 100% deductible as monetary charitable contributions when, in fact, a portion of those payments are a fee-for-service covering the cost of the deconstruction services they are receiving in lieu of the demolition contractors they would have needed to hire.

   a. *Solution:* While appraisers are not in charge of policing nonprofits, they must share relevant tax information. Clients should know that paying a nonprofit and receiving a service in return negates the charitable contribution partially or in total, based on the value of the service provided. Appraisers must also ensure clients know appraisal fees are not tax deductible.

8. The appraiser inflates quantities of materials. Five doors is changed to ten, 25 windows is changed to 35 and hardwood floor panels go from 300 to 500 hundred. These are small and simple quantity inflations the appraiser hopes will go unnoticed by the nonprofit—and they add up quickly. Furthermore, the nonprofit is not policing the appraiser and rarely views the final appraisal and does not take the time to match up inventories of received materials vs. appraised materials.

   a. *Solution:* Ethical appraisal practices requiring cross-checking to ensure quantities are exact and accurate.

9. These are small and simple quantity inflations the appraiser hopes will go unnoticed by the nonprofit—and they add up quickly. Furthermore, the nonprofit is not policing the appraiser and rarely views the final appraisal and does not take the time to match up inventories of received materials vs. appraised materials.
a. **Solution:** Descriptive photographs of all materials must be included. Sampling photographs can be provided if there is a large quantity of one type of material. High-end fixtures, furnishings and appliances should include photographs of their brand, make and model number, if available to photograph. Best-practices should dictate that in cases where brand or other determining descriptive factors cannot be determined, the extraordinary assumption should be applied assuming it is of lowest quality. For example, if there are kitchen cabinets without a visible branding stamp and the brand cannot be substantiated, lowest quality comparable prices are used.

10. The nonprofits refuse to produce a comprehensive inventory of everything they receive, independent of the appraiser’s list. They either simply do not care about the accuracy of the appraised materials or view this as too onerous a task to add to their duties. Some appraisers do not require a nonprofit to produce an inventory or simply provide their own inventory on which the nonprofit can sign off.

   a. **Solution:** Nonprofits must provide an inventory of all received materials and property. Should they choose to look through the appraiser’s inventory listing, they must cross off items not received or accepted in case of materials and property arriving broken, damaged or unusable.

11. Appraisers who produce a majority of their appraisals for only one nonprofit might not be considered qualified. According to IRS Publication 561, *Qualified appraiser – Excluded Individuals,* *6:* “An appraiser who appraises regularly for a person in (1), (2), or (3), and who does not perform a majority of his or her appraisals made during his or her tax year for other persons.” Furthermore, “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 appraiser to falsely overstate the value of the donated property. For example, if the donor and the appraiser make an agreement concerning the amount at which the property will be valued, and the donor knows that amount is more than the Fair Market Value of the property, the appraiser is not a qualified appraiser for the donation.”

   a. **Solution:** Appraisers must take constructive steps to ensure they remain neutral and have the ability to produce appraisals for any client with the same level of competency regardless of the donee organization. In simple terms, an appraiser must not agree to inflate valuations at the behest of a nonprofit with the implied threat that work will be given to other appraisers or the implied promise of future referrals should the valuations be increase.

12. Nonprofits are not required to accept donations from donors for any reason. The IRS has not specified that the reason must include the perceived overvaluation of an appraisal. However, rejection of an inflated donation would, indeed, be appropriate. Per form 8283, nonprofits are not held accountable for accepting materials that are overvalued by an appraiser. Form 8283 explicitly states in Part IV Donee Acknowledgement, “This acknowledgement does not represent agreement with the claimed fair market value.” While nonprofits may be a good judge of an appraiser’s professional capacity, they should not be the final arbiter of appraiser certifications. This must be accomplished by an independent source, such as the Appraisal Standards Board or one of the appraiser organizations. There could be underlying
motivation for nonprofits to collude with appraisers to inflate valuations for myriad reasons discussed throughout this proposal.

13. Based on scenarios 1-11, each appraiser must sign a statement including, “Understands that an intentionally false overstatement of the value of property may subject him or her to the penalty for aiding and abetting an understatement of tax liability. The donor may be liable for a penalty for overstating the value of donated property.”

Section Thirteen: Ethical Infractions and Whistle-Blowers

A system must be implemented by which industry members can report unethical practices by deconstruction/reuse appraisers. Some situations in which an appraiser is deemed to have acted unethically include the following scenarios included in the ISA Core Course in Appraisal Studies Chapter 15. This is also found in AOA’s disciplinary procedures: https://www.aoaonline.org/disciplinary-action

1. “It is unethical for an appraiser to attempt to injure another appraiser by making malicious or false statements or innuendos. Just as an appraiser should not disparage a fellow appraiser, they must not disparage the appraisal profession as a whole by acting unprofessionally, unethically or by engaging in unfair competition.” Violations of this nature would include emailing or calling industry leaders and clients defaming other appraisers. An appraiser using vulgar language, yelling, name-calling or making racially insensitive comments to clients, industry members or fellow appraisers would constitute an ethical violation.

2. “You must not attempt to obtain an appraisal assignment that you know has been entrusted to a colleague. Such attempt can take the form of implied or real disparagement of a colleague. In addition, it might be perceived as ‘interference with an advantageous business relationship or contractual relationship’ a tort liability in the U.S.”

3. “You must not attempt to undercut the fees normally charged for appraisal services in your region in order to obtain an appraisal assignment at the expense of another appraiser if your fee has already been quoted.”

4. “You must not knowingly increase or decrease an estimate of value for an item of property, even on a provisional basis, in order to obtain an appraisal assignment.” If a nonprofit or donor requests an increased valuation this request must immediately be rejected.

5. “You must not take credit for work done by a colleague. When using a colleague’s work information or value conclusions, get permission from them and credit them in your work product.”
6. “An appraiser should contribute to the development of the profession through the exchange of knowledge and experience with colleagues and students.” As an industry of deconstruction/reuse appraisers, we are devoid of this cooperation and collaboration presently but many are working towards achieving this goal.

7. “You must not discredit the appraisal profession by misrepresenting any of your appraisal qualifications to the public through inaccurate advertising or through inaccurate promotions of appraisal services available.” For example, an appraiser should not claim membership to an appraisal organization or credentialing if it has not been achieved.

8. “Appraisers must not misrepresent any of the following:
   a. Professional designations
   b. Level of membership in appraisal organizations
   c. Misrepresenting a designation that would create an impression of competence they do not possess.
   d. Misrepresenting certificates of individual course completion”

9. An appraiser should never make unwarranted, misleading or deceptive promises or claims. An appraiser must never advertise (through oral or written communication) that appraisal value conclusions will be tailored to meet clients’ desires.

10. “An appraiser must not represent any information obtained during the appraisal process in order to influence a client or a third party. An appraiser must not misrepresent or suppress any market information in order to manipulate the value conclusions. Appraisers may also be guilty of these infractions if they omit relevant data from the appraisal report.” Artificially inflating the quantities and misrepresenting the qualities of material must be closely examined by appraisal professional organizations, the IRS, donors and nonprofits.

11. “Do not suppress information regarding the qualities, proper identification, necessary authentication, use or potential markets of an item of personal property that could benefit one party of an economic transaction. Also, do not suppress information regarding the value or proper market research of an item of personal property that could benefit one part of an economic transaction.” Appraisers who do not include adequate identifying photographs could fraudulently report on the quality of a personal property donation. Ensuring proper documentation in producing the inventory, as discussed above, would help mitigate the risk of this particular unethical practice.

Despite adequate ethical standards outlined above, there is currently no one organization to whom infractions can be reported and investigation and follow-up commenced. Furthermore, even if adequate investigation and follow-up were performed and an appraiser was found ethically deficient, there is no searchable database for consumers to determine if an appraiser has been unethical or is considered “unqualified” due to egregious ethical violations. Again, we propose a searchable listing to be kept by the ISA, ASA, Appraisal Standards Board and potentially another site devoted to providing watchdog service to the deconstruction/reuse appraisal industry.
Section Fourteen:
Current Challenges to Deconstruction/Reuse Appraisal Validity

As stated in the introduction, deconstructed material appraisals have been performed for approximately twenty-five years by a small and insular group of appraisers with very little oversight. The list below are some challenges with emerging reports provided to industry trade associations like Build Reuse, covered by newspaper articles to protect consumers, court cases and information passed along through CPA-industry related groups protecting clients hoping to take deductions for deconstructed materials.

1. Some nonprofits have claimed to have lists of “IRS Approved” appraisers. The IRS sets forth standards for an appraiser to be deemed “qualified” but maintains no such lists granting approved status. Upon closer inspection of some lists, some appraisers do not appear to be members of any of the three personal property appraisal organizations, ISA, ASA or AAA. Approximately 70-80% of personal property appraisers do not belong to any organization. We must work to centralize membership requirements with emerging specialties in Deconstruction/Reuse Appraising to be created to expand the current market of appraisers and increase competition. Lists promulgated by nonprofits like this, demanding one of their “qualified” appraisers must be used, should be prohibited as it increases the propensity for appraisal valuation inflations as these appraisers may keep valuations as high as possible to remain favored by the nonprofit.

2. Some appraisal companies have publicly stated they are IRS-proof through videos and written statements on websites and oral communication. These should be removed immediately.

3. Some nonprofits and appraisers claim they have only had a certain number of clients audited for their deductions. Furthermore, some claim to have been called as “expert witnesses” and state publicly that only a very low number of clients have ever been audited and that the nonprofit or appraiser’s rebuttal or expert testimony allowed them to keep the entire deduction. This is a ludicrous claim as the nonprofit and/or appraiser may never be notified if a taxpayer was audited as only the taxpayer receives the deficiency notice. Many of these clients may have had their return reviewed because of another issue besides the non-monetary charitable contribution deduction. Deficient revenue recognition may have triggered the audit and in the process, they also lost the charitable deduction. Claims by nonprofits and appraisers regarding being “audit proof” or “IRS certified” or “IRS Approved” must no longer be permissible.

4. Unethical appraisers who own appraisal companies may choose to hire ethical appraisers to become signatories on appraisals, thus shielding the bad actor from being responsible for the appraisal. However, the following points elucidate the myriad way appraisals can be manipulated and inflated by business owners:
a. Some appraisers purposefully provide very high initial quoted value ranges and then insist their staff do whatever it takes to reach these levels. Staff appraisers can refuse and should if acting ethically.

b. When staff appraisers produce what would be otherwise accurate appraisals, the business owner can change the data in the following ways to reach a higher valuation and manipulate the data to avoid detection:
   i. Changing quantity of a particular material
   ii. Removing clear photographs that would properly identify a lower-quality material or property and replacing it with a fraudulent photograph of a material or property of a higher-quality.
   iii. Using Pdf-writer software to change the original appraiser’s numbers and valuations.
   iv. Adding photographs from other job-sites to fraudulently add materials and property to an existing appraisal.
   v. Changing the quality of material to one with a higher-value when the photographs would not provide proof of the fraud due to indistinguishable characteristics.

Often, the original appraiser might not ever be aware their appraisal was manipulated with a higher valuation. We propose appraisal companies who have regularly and habitually engaged in such practices be disallowed from practicing within the industry.
Conclusion

There are multiple beneficiaries of inflated deconstruction/reuse appraisals:

- The nonprofit is able to receive more donations if the appraised value is inflated—the taxpayer is more inclined to deconstruct and donate if they receive a larger tax deduction. Nonprofits may be able to extract larger monetary donations or pledge amounts if the initial appraisal valuation quote is high.
- The appraiser will win more bids when the taxpayer goes “appraisal shopping” and finds an appraiser offering a higher quoted value range initially and ensures they hit that range in the final appraisal. This also allows the appraiser to charge higher fees that will be less of a hindrance to a taxpayer if they think their deconstructed materials are worth a high value.
- Deconstruction contractors may be able to charge higher fees to deconstruct if the taxpayer receives an inflated initial valuation quote as they can absorb higher fees given their supposed tax windfall.

Real estate appraisal inflations pushed by lenders helped substantially contribute to the 2008 financial crisis, current over valuations of real estate in “reverse mortgages” have resulted in a negative capital ratio of 19.84% and $14.5B in negative net worth for the FHA. The Justice Department cracked down on absurdly inflated appraisal valuations on easement donations, as well. Deconstruction/reuse material appraisal inflations are producing potentially millions of dollars in lost IRS and state revenue collections through habitual fraudulent practices.

Greater education and best-practice sharing in all areas of deconstruction/reuse material appraisals must commence immediately by the limited number within the industry. The rules for ethical practice are in place and more than adequate to ensure ethical compliance. However, the reporting and investigation of infractions are not as adequate to identify those appraisers who are performing unethically. Especially for those showing habitual unethical practices. These appraisers must be identified and precluded from appraisal practice—protecting the taxpayer from underreporting of income to the IRS. Additionally, should the industry not devise a way to self-regulate, alleged current and widespread unethical practices could move Congress to pass laws disallowing form 8283 non-monetary charitable deductions from applying to deconstructed and donated materials. This could hinder environmental efforts to incentivize waste diversion and lead to increases in construction and demolition landfill dumping. As industry members and leaders, we hope to work cohesively to ensure only those with requisite skill, experience and ethical practices produce appraisals. We also hope to recruit students and individuals in complementary industries like construction, accounting and engineering to the profession. This will provide a larger pool than the current 17-20 deconstruction/reuse appraisers found nationwide, create greater competition and bring more members to help self-regulate. The general message regarding deconstruction/reuse material appraisals should be that they provide a financial incentive to help alleviate the higher costs of deconstruction over demolition. In areas of the country where the market has brought deconstruction and demolition to equal price-points, tax deductions provide a reasonable benefit to choosing the environmentally sound alternative. The appraisals should not be advertised like a windfall of money and conducted like a typical illegal tax shelter.

27 https://publicintegrity.org/environment/the-appraisal-bubble/
Deconstruction Appraisal Valuation Guidance by the American Society of Appraisers  
Jessica I. Marschall, CPA, President and CEO The Green Mission Inc.  
March 25th, 2020

Appraisal Principles and Procedures, Henry A. Babcock, FASA is the core course publication used by the American Society of Appraisers (ASA) as a textbook for becoming a credentialed member of their organization. Information and procedures outlined within the text can be applied to what we call “deconstruction appraisals.” Some suggest alternate titles such as “Architectural Salvage Appraiser,” or, “Reuse Appraiser,” The title does not matter; the valuation methodology does. There is no defined category for appraisals of these type within ASA at this time, however we expect the demand for these appraisals to continue to increase as deconstruction ordinances are passed and circular economy goals become more widely embraced. Individuals and businesses will discover tax deductions for the value of these materials as an attractive tax savings. Throughout this textbook, Babcock provides critical analysis that must be considered when valuing materials and property for income tax deduction purposes, and by extension, by deconstruction, architectural salvage or reuse appraisers. We will stick to “deconstruction appraiser” for the remainder of this writing for simplicity.

Comparable Property

The author introduces us to the definition of Comparable Property. This is defined as, “A whole property of the same kind as the subject property and capable of being compared with it. In some cases, a comparable property may be equivalent to the subject property; or, in other cases, identical with it; but to be comparable a property does not necessarily have to be either equivalent or identical.” 332 p. 51 Deconstruction appraisers claiming they cannot use the correct methodology, the Sales Analysis Method of Valuation (ASA term) or the Sales Comparison Method (International Society of Appraisers—ISA) requires an impossible stretch of credulity: comparable sales data for these materials exists and has existed for at least the past decade.

Classifying properties into defined categories is necessary to analyze which valuation method should be used. From the text, “classification permits the establishment of general and unifying concepts of the character of property value and hence has a place, perhaps in the general field of theoretical economics.”

Three Categories of Property:

Marketable Noninvestment Property: This is the type of property we value as deconstruction appraisers. This is to the exclusion of the other two types of property—investment property and service property. Let us dive right into the definitions of these types of property as provided in the text:

Investment Property: “one which is expected to be useful to its owner through the production of a net monetary yield; it is marketable because the expectancy of a monetary yield is always salable at some price; and it is expected to be self liquidating through the recovery of the capital investment out of the net monetary returns…The value is measured by calculating the present worth of the earning expectancy.” xxv
**Marketable Noninvestment Property:** “one which is expected to be *useful* to its owner through providing amenities, satisfactions, or other benefits of a nonmonetary character; it is also *marketable*; but it is not expected to be self-liquidating. The type of value it has is called *market value*. This value is measured by relating the prices paid for comparable properties to the value elements of those properties and then applying this relationship to the value elements of the subject property. Preferably, this relationship is expressed in mathematical form.” xxv

**Service Property:** “one which has neither an earning expectancy nor marketability (in the sense of being of a type commonly bought and sold). Its sole value characteristic is *usefulness to its owner*. It has neither investment value nor market value. Any value it has is value to the owner, hence the name *owner value*. This value is in the mind of the owner and, strictly speaking, cannot be measured. However, in the case of a replaceable, tangible, service property, the replacement cost, new, depreciated, is frequently assumed as representing its owner value.” xxv

**Methods of Valuation for the Three Categories of Property:**

- **Investment Property** = *Investment Analysis Method of Valuation*
- **Marketable Noninvestment Property** = *Sales Analysis Method of Valuation*
- **Service Property** = *Cost Summation Method of Valuation*

**Comparable Sales Data and Market Value**

Analyzing comparable sales data should take mathematical and statistical form. The Green Mission Inc. had already incorporated statistical analyses into evaluating the comparable sales data derived from research. Specifically, this has included the basic statistical values of range, median, mode and mean. After thorough review of the analysis within this book, we have added a yield curve when plotting multiple data points and looking for trends as well as calculating correlation coefficients and ensuring data included is within +/- 2 standard deviations. These concepts have offered additional incredibly useful criteria as we move to ensure these valuations are derived from solid objective data and undergo thorough analysis.

*Marketable noninvestment property* is to be valued using *market value*. From the text, “The central idea in the concept of market value, whether applied to an investment property or a marketable noninvestment property, is the idea of the most probable buy-sell price. The determination of market value is based on the assumption that, if other properties (identical, equivalent, or otherwise comparable to the subject property, as the case may be) have sold at a certain price, or within a certain price range, then the subject property will also command the same price—this is the price a seller will probably get, or the price a buyer will probably have to pay. The validity of this assumption depends upon the continuation of the “market” from which the sales data were obtained, or, more precisely, upon the continuation of the *trends* demonstrated in that market.” 664 p. 117

The author presents a description of what he believes best summarizes the concept of fair market value. 733 p. 139

1. The *highest price* in terms of money which the property will bring
2. If exposed for sale in the open market, with
3. A reasonable time allowed to find a purchaser
4. Buying with a knowledge of all the uses and purposes to which it is adapted and for which it is capable of being used,
5. The seller being willing but not compelled to sell and the buyer being willing but not compelled to buy.

This textbook provides yet another volume of appraiser science that clearly states the type of property we, as deconstruction appraisers, are valuing and the valuation method to be used: Marketable Noninvestment Property using the Sales Analysis Method of Valuation. The fallacy that has been advanced by many within the current pool of deconstruction appraisers claims that the materials and property salvaged from deconstruction projects only has “Owners Value” as defined above under “Service Property.”

Some deconstruction appraisers use the Cost Approach to Value (ISA term) or the Cost Summation Approach to Value (ASA term) in deconstruction appraisals. A hypothetical deconstruction appraiser might claim that there is insufficient comparable sales data from which valuations can be derived. This is false. Comparable sales data for building materials and other household property have existed in abundance for at least the past decade if not longer. Additionally, hypothetical appraisers using construction cost estimating software like RS Means or Marshall & Swift for full-house deconstructions. They load material quantities into the software with a plug of arbitrarily assigning depreciation produce valuations not in line with IRS codifications, underlying GAAP and the literature presented by both ISA and ASA and other personal property appraisal experts. Tying this back to the IRS definition of fair market value and the values that must be used for income tax deduction purposes, GAAP and the IRC would place weight upon market sales data and not support the claim that a market does not exist and, hence, an original cost less an arbitrary amount of depreciation is the correct method of valuation. This is especially relevant when valuations using the incorrect methodology and/or this software produce inflated valuations. Even if the valuations are not inflated, the methodology is absolutely incorrect. Materials and property without a comparable sales valuation necessitating the Cost approach are rare and the Cost method usage should be proportionately rare.

Section 520 on p. 88 provides a list of what falls under Marketable Noninvestment Properties as well as Service Properties.
Here is a list of included chattels in **Marketable Noninvestment Properties**:

- Machine tools
- Machinery & equipment
- Furniture & furnishings
- Homemade table
- Office equipment
- Typewriter
- Fine arts & antiques
- Gems & jewelry
- Diamond ring
- Furs
- Stamp collection
- Art collection
- Private automobile
- Personal clothing
- Food purchased at retail
- Portable or removable building

And now the list of **Service Properties**:

- Church
- Public school
- College
- City hall
- Jail
- Hospital
- Club
- Institution
- Freakish single-family residence

Can any deconstruction appraiser claim, with any credulity, that deconstructed materials and property more accurately fit under **Service Properties** than under **Marketable Noninvestment Properties**? If hypothetical deconstruction appraisers cannot ram deconstructed materials under a false classification of **Service Properties** then it follows that they cannot use the wrong valuation method, the **Cost Summation Approach Valuation**. This is, yet again, clear and concise instruction on how we, as deconstruction appraisers, must value property for income tax valuation purposes.

**Service Property and Using the Cost Summation Valuation**

Let us examine the text for clarification on what constitutes **Service Property** and when the **Cost Summation Valuation** approach should be used especially in light of actual and alleged use of this method by some within the current pool of deconstruction appraisers.
Service property characteristics provided within the text:

1. A service property does not have an earning expectancy
2. It is not marketable (515.2, p. 80)

Service property is considered to have use to the owner but a market for sale of the property does not exist. Additionally, replacement properties cannot be purchased but must be produced, hence the application of replacement cost, new/ replacement cost, used/ replacement cost, new, depreciated. From the text, “It is desirable to emphasize again that the replacement cost, new, depreciated does not measure the value of a whole investment property or of a whole marketable noninvestment property. Its only applicability to whole properties appears in the case of owner value of tangible service properties and even here it is not on very firm ground.” 753, p. 148 Further, “One of the principal uses of replacement cost, new, depreciated occurs in insurance appraisals where, in most cases replacement of that which is destroyed or lost is the concern rather than compensation for loss in value. Another principal use is in the appraisal of business enterprises.” 761 p. 149, emphasis mine.

The Cost Summation Valuation is applicable to valuations for insurance purposes and not for marketable noninvestment property, of which definition deconstructed materials and property clearly fit. Further examples utilizing the Cost method include, “Real estate, business enterprises, gems, fine arts, and antiques are examples of properties for which market quotations for standardized units do not exist.” 121.2 p. 5 Further examples of application include:

1. Determining assessed value for property tax purposes
2. Determining the amount of the award in a condemnation action.
3. Mortgage financing (church, museum, etc.) 813.331, p. 181

Back to the Sales Analysis Valuation Method

Market value of marketable noninvestment property as an appraisal objective, clearly lays out that the Sales Analysis Valuation Method is to be used “as fair market value, for income tax, gift tax, and inheritance tax purposes.” 813.332, p. 181 Our prior research has tied the concept of fair market value back to the underlying accounting standards for asset valuation found in FAS 157 Fair Value Measurements. Were the question of which valuation method should be used for deconstructed material put to debate, it might prove to be a quick and easy win for Team 1:

Team 1: We claim the Sales method must be used when valuing deconstructed materials and property.

Team 2: From where do you claim this mandate?

Team 1: IRS definition of fair market value and the underlying accounting principles found in GAAP

Team 2: Is that it?
Team 1: International Society of Appraisers also make this claim clearly in their Core Course, which is the beginning course for any personal property appraiser.

Team 2: So, only one appraisal organization?

Team 1: No, actually the same concept is taught in the American Society of Appraiser’s Core Course, again for beginners.

Team 2: But, I have been doing these appraisals for decades! In fact, I have produced thousands of appraisals and never had a single audit! You must defer to my experience and longevity in this industry!

Team 1:
   a. Consistency of wrong practices for a long duration does not prove correct application of methodology
   b. A taxpayer gets audited, not an appraiser. You have no idea how many clients might have been audited and lost their deductions. Furthermore, do you understand that an entire return comes under audit, not just a single form, in this case form 8283? A taxpayer may have had other tax inaccuracies and never fought back on the 8283 valuation disallowance.

Team 1: Of necessity, our follow up questions to Team 2: Are you technically a “Qualified Appraiser” by IRS standards? If you answer in the affirmative, how would you answer the following questions:
   a. Do you have an undergraduate and/or master’s degree and what discipline did you study? Was that field complementary to understanding objective measurement valuation methodology?
   b. Are you an accredited member of an appraisal organization? If you have been practicing for years, have you always been an accredited member of the organization?
   c. Do you follow the Sales valuation approach? If not, defend your answer and cite sources for support.

The “Experience” Conjecture

Within the deconstruction appraisal industry, too often it is said that an appraiser must be trusted and engaged because of their many years of experience. It should be considered that many years of producing appraisals using the wrong valuation methods and principles does not a competent appraiser make. Claims that subjective assignment of values based on experience or having the knowledge in one’s head does not suffice when such clear and objective valuation-criteria are set forth in numerous scholarly and authoritative publications. Many have fallen back on the term “opinion of value” to mean that the opinion can be subjective and not attached to empirical data.

A priori as defined, is relating to or denoting reasoning or knowledge which proceeds from theoretical deduction rather than from observation or experience and cannot be the appraiser’s norm for developing valuation opinions. A posteriori, or in a way based on reasoning from known facts or past events rather than by making assumptions or predictions, must underly all analysis in deconstruction appraisal valuations. Valuations of deconstructed materials and property lend themselves well to empirical analysis, data trend evaluation and statistical measures. Utilization of empirical evidence demonstrates that the data captured and analyzed supports the appraiser’s valuations. “The effective value elements in any set of comparable sales can only be discovered by detailed research and statistical analysis of numerical data.” 829.24, p. 219. Appraisers must try
out different equations to determine the best fit for proper analysis of the data captured until they find the correlation, analyze statistics and throw out potential outliers and provide objective support for each value assigned.

Reviewing this portion of the text was thrilling as a CPA with a Masters in Accounting degree and equally thrilling for our COO, with a Masters in Construction Management. We both look to objective, empirical methods in analyzing data sets. While we may both be abysmal creative writers, we thrive on the objective, provable data sets and related analyses to prove or disprove our valuation opinions. As stated before, deconstruction appraisers have the ability to rely almost entirely on objective data. Subjective judgment must be employed in determining condition of materials when compared to comparable sales but even the subjectivity is constrained by objective and verifiable underlying market values. We are not fine art appraisers or those hired to prove provenance of an original manuscript nor to appraise a raw cut gem. We are valuing tangible assets with comparable valuations that are plentiful in multiple sources. There are very few instances in which an appraiser can claim that comparable sales data, of either duplicate or similar characteristics, do not exist. Our produced appraisals bear this out.

Appraisals for deconstructed materials and property aligns closely with the related academic fields of economics, finance, accounting, statistics, construction management, engineering and architecture. Ideally, an appraiser should have an undergraduate, masters or other advanced degree in one of these fields to ensure they possess a clear understanding of the objective, empirical valuation measures that must be employed to arrive at accurate valuations.

The Green Mission Inc. will continue our research to promote best-practices among deconstruction appraisers and to encourage procurement and training of a new pool of sharp talent to meet the demand for increases in deconstruction projects and required appraisals.
The process of deconstruction is to carefully dismantle existing structures with the intent of salvaging and reusing materials and fixtures with remaining useful life. These services are an environmentally friendly alternative to demolishing and throwing the contents into the dumpster, and eventually, the landfill.

Many nonprofits offer deconstruction services. They often provide training to individuals with the hopes of teaching skills that will result in long-term employment prospects. These “Workforce Training” programs are funded by nonprofits. Sometimes, nonprofits request from donors, a pledge, or monetary donation, for providing deconstruction services. These pledges must be carefully analyzed for deductibility from a tax perspective.

Nonprofit Monetary Pledges—Are They Deductible?

1. If the fees charged for deconstruction services are, in fact, a fee-for-service, these amounts are not tax deductible as a monetary charitable contribution. The IRS requires donations given to nonprofits to be given without expectation of receiving a good or service in return. The donor is receiving the service of having the building or structure removed—most certainly a fee for service and a quid pro quo.

2. The nonprofit can help with financial and tax transparency by dividing the monetary pledge into two components: a fee-for-service and a purely charitable contribution. This transparency is necessary for both the donor and the nonprofit to substantiate the deductibility of any part of the monetary donation.

3. If the nonprofit does not make this necessary breakdown of costs, the donor should contact other companies offering similar services, like demolition and removal, and collect bids on what they would charge to do similar work. They should work with their tax professional to carefully document this process when determining what, if any, of the monetary pledge amount is deductible.

4. Nonprofits who base pledge amounts off of appraised valuations should be highly suspect, in our opinion. The funds needed to run the deconstruction crew coupled with covering the workforce development program is completely independent of the underlying appraised valuation of the assets to be donated.

5. The appraiser’s fees may not be based on a percentage or correlate with the appraised valuation—they must be based on the amount of work to be performed. We posit the same treatment should be given to pledges by nonprofits offering deconstruction services—fees should be based on the amount of work to be performed and the costs to run the workforce training program, not the value of the donation.

6. The situation is ripe for abuse, from both the nonprofit and the appraiser, when pledges are based on appraisal valuations. Nonprofits and appraisers could hypothetically work together to ensure the appraised valuations are high. This makes higher pledge amounts more easily stonached, by the donor, when they believe a higher tax deduction will be realized. Appraiser fees can also slide higher when
they promise higher valuations. Again, the donor can better stomach creeping fees when they feel like they are winning the deconstruction tax deduction lottery.

A Final Word on Nonprofit and Appraiser Independence

Nonprofits and appraisers must maintain complete independence from each other. Nonprofits should have absolutely no say as to which appraisers can and cannot be used by a donor when donating to their organization. A nonprofit hypothetically keeping a list of “Approved Appraisers” is professionally and ethically unacceptable. Some good follow-up questions for appraisers and nonprofits include the following:

1. Appraiser—What percentage of appraisal work do you perform for this nonprofit?
2. Conversely, Nonprofit—what percentage of your donations are appraised by this appraiser?

The Green Mission Inc. continues our work of elucidating appraisal and appraiser standards to an industry in need of regulation. The standards have already been written and codified by the IRS, appraisal organizations and case law. Deconstruction, Reuse or whatever-you-want-to-call-yourself appraisers must retain our independence, value using approved methodology to arrive at fair market value, and ensure huge rays of sunlight exist between ourselves, nonprofits and other members of the industry. By doing so, we provide our best service to the circular economy by ensuring donations and reuse continue unabated devoid of irregularities, or as the IRS might put it—tax fraud.