



AMC 2026

Session 5

**Donate Your Car, House,
Artwork Today! The
Problem with Non-Cash
Donations**

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About the Presenters...

John R. Decker (J.D., Marquette, 1977) is retired from a practice that included service as general counsel for a health care provider, work as an associate and partner with Michael, Best & Friedrich in Madison and Milwaukee, sole practice, and growth of the firm of Decker & Gunta, S.C. in Milwaukee. He also served as a referee in lawyer discipline cases for 23 years and as a lecturer and senior lecturer at the Milwaukee School of Engineering for 12 years. John was president of the State Bar of Wisconsin from 1990 to 1991. He was a member of the State Bar's Board of Governors for 10 years and a member of the American Bar Association's House of Delegates for 6 years. He was the founding chairperson of the State Bar's Construction & Public Contract Law Section and is a Fellow of the Wisconsin Law Foundation. He will begin service as president of the Senior Lawyers Division on July 1, 2026. An abiding interest in history has steered him to top leadership positions in numerous local and statewide history organizations including the Board of Curators of the Wisconsin Historical Society and current service as president of the Dane County Historical Society.

Robert B. Teuber is a shareholder with von Briesen & Roper, s.c. working out of the Milwaukee and Waukesha offices of the firm. His practice focuses on tax disputes and controversies nationally, regionally and locally with the Internal Revenue Service, Wisconsin Department of Revenue and municipal tax authorities. Rob takes great pride in assisting organizations and individuals outside of his tax practice and currently serves on the State Bar of Wisconsin Finance Committee, a past Chair of the Taxation Section Board of Directors, and has previously served as the chair of the State Bar's Continuing Legal Education Committee. Rob is a frequent presenter at conferences and continuing legal education seminars as well as an avid writer and has published articles for CCH tax publications and contributed articles on complex tax and business issues in the *Wisconsin Accountant*, *BizTimes*, *CPA Magazine*, *On Balance* and the *Wisconsin Law Journal*. Rob is recognized by The Best Lawyers In America for tax law, is listed as a *Wisconsin Super Lawyer*® and is a Fellow of the Wisconsin Law Foundation. He is a member of the State Bar of Wisconsin and the Milwaukee Bar Association.

Donate Your Car/Boat/Art Collection Today!

The Problems with Non-Cash Donations

The Donee's Perspective

Atty. John R. Decker

I. Federal income tax reporting

- a. Form 990-N e-Postcard reporting where receipts in a fiscal year generally are \$50K or less
- b. Form 990, 990-EZ or 990PF otherwise

II. State regulatory environment. Wis. Stat. ch. 202 and Wis. Adm. Code sec.

DFI-CCS 11

- a. Solicitation or receipt of donations
- b. Charity subject to regulation—sec. 501 (c) 3 organizations. Wis. Stat. sec. 202.11 (1) (a), or “a benevolent, educational, philanthropic, humane, scientific, patriotic, social welfare or advocacy, public health, environmental, civic, or other eleemosynary” organization. Wis. Stat. 202.11 (2) (b), but not a “fraternal, civic, benevolent, patriotic or social organization that solicits contributions solely from its membership”, Wis. Stat. sec. 202.12 (5) (3) (a) 3m, or a “veterans organization”, *id.*, subs. 4.
- c. Further conditions for registration
 - i. One or more paid staff, Wis. Stat. sec. 202.12 (5) (a) 3, or
 - ii. More than \$25,000 in contributions in a fiscal year, *id.*
- d. Disclosure requirements—Wis. Stat. sec. 202.12 (6m) and DFI-CCS 11.03.

- e. State-by-state regulation
- f. Categories of credentials
 - i. Charity
 - ii. Fundraising Counsel
 - iii. Professional Fundraiser
- g. Enforcement
 - i. Limitation on credentials
 - ii. Injunctive relief
 - iii. Reporting to sister agencies
- h. Filing requirements
 - i. Establishment and annual renewal of credentials
 - ii. Annual information return
 1. DFI Form 1943 Affidavit--\$25K/\$50K or paid staff threshold
 2. DFI Form 1952 where charity is not eligible to file DFI Form 1943 and files IRS Forms 990, 990-EZ or 990PF. (\$500,000 contribution threshold for requirement of reviewed financial statements)
 3. DFI Form 308 where charity is ineligible to file Forms 1943 or 1952. (\$1,000,000 contribution threshold for requirement of audited financial statements)
 4. DFI Form 1953 to request a waiver from the requirement to file and audited or reviewed financial statement

III. Vehicle Donations See IRS Publication 4302 A Charity's Guide to Vehicle Donation

- a. Vehicle types: “Cars or any other vehicle manufactured mainly for use on public streets, roads, and highways; or a boat; or an airplane”
- b. Partial list of charities soliciting vehicle donations (not an endorsement):
 - i. Animal Car Donation
 - ii. Canine Companions for Independence
 - iii. Cars for a Cure (American Cancer Society)
 - iv. Cars for Homes (Habitat for Humanity)
 - v. Donate to DAV (Disabled American Veterans)
 - vi. Goodwill Industries
 - vii. Kars4Kids
 - viii. National Public Radio
 - ix. Purple Heart Foundation
 - x. Rawhide Youth Services
 - xi. Ronald McDonald House Charities
 - xii. The Salvation Army
 - xiii. Vehicles for Veterans
 - xiv. Wheels for Wishes (Make-A-Wish Foundation)
- c. For-profit entities in the car disposition space:
 - i. Car Max
 - ii. Carvana
- d. Options for disposition by the donee:
 - i. Arm’s length sale to a disinterested third party
 - ii. Pick-up-to-auction service by an agent
 - 1. Examples (again, not an endorsement):

- a. Advanced Remarketing Services
 - b. Car Donation Foundation
- 2. Requirement of a written agreement and actual supervision by the charity (not a mere name-licensing arrangement). Downside: Risk to tax exempt status
- iii. Retention by the donee:
 - 1. For purpose of making a material improvement to the vehicle (e.g., for vehicle repair training program) which is not funded by an additional donation by the donor
 - 2. For a significant intervening use (e.g., Meals on Wheels)
- iv. For donation of the vehicle by the charity to a low-income individual (must be part of the exempt-purpose mission expressed in the charity's Determination Letter from the IRS)
- e. Transaction reporting requirements (a joint effort of donor and donee) (IRS Form 1098-C and other documentation, as appropriate)
 - i. General requirement of a Contemporaneous Written Acknowledgement (CWA) for all gifts of \$250 or more. IRC sec. 170 (f).
 - 1. Furnished to donor by the donee within particular time limits (see below)
 - 2. Stating date on which donation was made
 - 3. Containing statement that *no goods or services were furnished to Donor in return for the contribution, where that is the case.*

4. Giving particulars if goods or services were exchanged, including a good faith estimate of the value
- ii. On disposition by sale
 1. Gross sales proceeds of \$500 or less:
 - a. Donee reports date of sale and certification of the fact that the sale proceeds were \$500 or less.
 - b. Actual dollar amount not stated: Donor responsible for claiming deduction in the amount of the Fair Market Value of the vehicle (through price guides, Blue Books, etc.)
 - c. Form 1098-C, Copy C furnished to donor by donee within 30 days of the sale
 - d. Donee reports donation amount through annual information return (Form 8282)
 2. Gross sales proceeds more than \$500:
 - a. Donee furnishes CWA containing
 - i. Donor's name *and Taxpayer Identification Number*. Downside: failure to include TIN kicks donation down to that of \$500 or less
 - ii. The Vehicle Identification Number (auto VIN, boat registration number, aircraft tail number)
 - iii. Date of contribution
 - iv. Statement as to goods or services furnished in return for donation (as above)

- v. Certification that vehicle was sold in an arm's length transaction between unrelated parties
- vi. The date the vehicle was sold
- vii. Gross sale proceeds—without deductions for fees and expenses incurred
- viii. Statement that donor may not claim a deduction greater than the amount of the gross sale proceeds

b. Documentation

- i. Form 1098-C, with Copy A submitted to IRS by donee, copy C given to donor
 - ii. Form 8283 Donor's Noncash Charitable Contributions
 - 1. Filed by donor
 - 2. *Donee* provides certification as part of Part V of form
 - iii. Form 8282 Donee Information Return, as well as Form 990, 990-EZ or 990-PF, and Schedule M to Form 990, as applicable
- iii. On disposition by further donation to needy individual, or sale to needy individual for substantially less than FMV. See IRS Publication 4302
- 1. Stated exempt purposes of charity must include relief of the poor who are in need of transportation

2. Not sale of vehicle to third party with sale proceeds donated to needy person
 3. Form 1098-C to be furnished to Donor within 30 days of contribution
 4. Charity reports donation to IRS by filing Form 1098-C with it by February 28 (March 31 if filing electronically) of the year following the furnishing of the CWA to donor
- iv. On retention by charity where it intends a significant intervening use of the vehicle at the time of the contribution
1. Actual use of the vehicle to substantially further the regularly conducted activities of the charity
 2. The use is considerable, as judged by nature, extent, frequency, and duration of use
 3. Donee's use must be intended at time of contribution
 4. CWA is due to be furnished to Donor within 30 days of the contribution and must include
 - a. Certification that the charity intends to make a significant intervening use of the vehicle
 - b. A detailed statement of the intended use
 - c. A detailed statement of the intended duration of the use
 - d. Certification that the vehicle will not be sold before completion of the use
 5. Filing of Form 1098-C with the IRS, as above

- v. On retention by charity where it intends to make a material improvement to the vehicle at the time of the contribution
 - 1. A major repair or improvement, not funded by an additional donation by contributor
 - 2. Resulting in a significant increase in the vehicle's value
 - 3. Not cleaning, minor repairs or routine maintenance, such as
 - a. Painting or application of wax or rustproofing
 - b. Minor bodywork, as in removal of dents or scratches
 - c. Cleaning or repair of upholstery
 - d. Installation of theft deterrent devices
 - 4. CWA to be furnished to Donor within 30 days of contribution and must include
 - a. Statement of the charity's intention to materially improve the vehicle
 - b. Detailed description of intended improvement
 - c. Certification that the vehicle will not be sold prior to completion of the improvement
 - 5. Filing of the Form 1098-C with the IRS, as above

IV. Penalties for Fraudulent Statements

- a. Charity furnishes donor with a false or fraudulent acknowledgement, or knowingly fails to furnish required information, with respect to a deduction claim of more than \$500, or

- b. Furnishes an acknowledgement not based on gross proceeds
- c. Penalty is the product of the claimed value of the vehicle and the highest applicable tax rate or \$5,000, whichever is *greater*.

V. Works of Art and Historical Treasures

- a. Appraisal required for determination of value of contribution, with details determined by range of value claimed
- b. Donee's decision to accept should consider
 - 1. Costs and other burdens it will incur, including protection, security measures, insurance premiums, maintenance and upkeep issues, and management responsibilities connected with the item
 - 2. Whether conservation is needed or desired, and a comparison of likely costs to resulting value of the item
 - 3. How the proposed donation will affect Donee's exempt purposes
 - 4. Donee's Gift Acceptance Policies, as applicable
 - 5. Donee's Collections Management Policies, for museums and organizations holding collections of artifacts or archives
 - 6. Status of Donor's ownership and power to transfer the item
- c. Transfer should be made in connection with a Deed of Gift, where consideration needs to be given to Donee's unrestricted power to transfer or dispose of the item

VI. *Real Estate*

- a. All of the considerations above as to Works of Art and Historical Treasures
- b. Applicable land use regulations, including zoning
- c. Due diligence and other precautions for real estate transactions, including conditions of title
- d. Conditions under which the property will qualify for an exemption from real estate taxation
 1. Timing and content for application for exemption. Wis. Stat. sec. 70.11 (intro.), subsect. 70.11 (4).
 2. Strict construction of the exempting; burden on applicants to establish eligibility. Wis. Stat. sec. 70.109, *United Rentals, Inc. v. City of Madison*, 2007 WI App 131, 302 Wis. 2d 245, 733 N.W.2d 322.
 3. Actual use of premises by applicants as a critical factor. Wis. Stat. sec 70.11 (4); *National Foundation of Health, Welfare & Pension Plans, Inc. v. City of Brookfield*, 81 Wis. 2d 205, 260 N.W.2d 251 (1971).
- e. Potential for litigation at multiple levels and multiple years. *Green Scapular Crusade v. Town of Palmyra*, 118 Wis, 2d 135, 345 N.W.2d 253 (App. 1984).

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The Problems with Non-Cash Donations

The Donor's Perspective

State Bar of Wisconsin
Annual Meeting and Conference
June 12, 2026

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- I. Charitable Contributions – the basics
 - a. Deduction Permitted - IRS §170 – There shall be allowed as a deduction any charitable contribution payment of which is made within the taxable year.
 - b. Qualifying Organizations - “Charitable Contribution” means a contribution of gift to or for the use of:
 - i. A community chest, corporation, trust, fund, or foundation organized or created in or under the laws of the United States, any state, the District of Columbia, or any possession of the United States (including Puerto Rico). It must, however, be organized and operated only for charitable, religious, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals. Certain organizations that foster national or international amateur sports competition also qualify.

No part of the net earnings of which inures to the benefit of any private shareholder or individual.

Which is not disqualified under IRC §501(c)(3) by reason of attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

- ii. War veterans' organizations, including posts, auxiliaries, trusts, or foundations organized in the United States or any of its possessions (including Puerto Rico).
 - iii. Domestic fraternal societies, orders, and associations operating under the lodge system. (Your contribution to this type of organization is deductible only if it is to be used solely for charitable, religious, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.)
 - iv. Certain nonprofit cemetery companies or corporations. (Your contribution to this type of organization isn't deductible if it can be used for the care of a specific lot or mausoleum crypt.)
 - v. The United States or any state, the District of Columbia, a U.S. possession (including Puerto Rico), a political subdivision of a state or U.S. possession, or an Indian tribal government or any of its subdivisions that perform substantial government functions. (Your contribution to this type of organization is deductible only if it is to be used solely for public purposes.)
- c. Requirement off a transfer – A voluntary transfer of money or property must occur.
- i. Cash and cash equivalents.
 - 1. Cash, checks and credit cards
 - 2. Promises to pay (promissory notes, pledges)
 - ii. Property
 - 1. Stock
 - 2. Real Estate
 - 3. Tangible Personal Property
 - 4. Intangible Property (i.e. patents, royalties)

5. Art

d. Amount of a Charitable Contribution Tax Deduction for Charitable Contributions

i. Is a deduction available?

1. Benefits received in exchange for contribution (Quid Pro Quo)?

a. Contribution is deductible to the extent that it exceeds the value of the benefits received.

b. Bargain Sales

i. The fair market value of the property transferred, less the proceeds received equals the amount of the charitable contribution.

c. Incidental benefits do not reduce the amount of a deduction.

ii. What is the value of the charitable contribution?

1. Generally, the amount of the contribution is the FMV of the property.

a. FMV equals “price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the facts.

b. Reductions may be appropriate in the case of appreciated property or where tangible personal property is unrelated to the purpose or function of the donee (reduction equal to 100% of the long-term capital gain that would have arisen if the property had been sold).

II. Substantiation Requirements

a. The substantiation requirements are based upon what is donated, the value thereof and are generally cumulative.

b. Contribution Thresholds:

- i. Less than \$250
- ii. \$250 or more, but not more than \$500 (\$250 - \$500)
- iii. More than \$500, but not more than \$5,000 (\$501 - \$5,000)
- iv. More than \$5,000 or more, but not more than \$500,000 (\$5,000 - \$500,000)
- v. More than \$500,000 (\$500,001 and up)
- vi. Contributions of Art are subject to different thresholds.

c. Required Substantiation

i. Less than \$250.

1. A written receipt from the charity that includes:

- a. the name of donee,
- b. the date of the contribution, and
- c. the amount of the contribution, or a “description of the property in sufficient detail under the circumstances for a person who is not generally familiar with the type of property to ascertain that the described property is the contributed property.
- d. For securities, the receipt should include the name of the issuer, type of security and whether they are publicly traded.

2. Reliable written records.

- a. That include the same information as would be found on a receipt from the donee.

- b. The fair market value of the property on the date of donation.
 - c. The valuation method.
 - d. The condition of the item(s) (for clothing or household items)
- ii. More than \$250, but not more than \$500.
- 1. A Contemporaneous Written Acknowledgement containing:
 - a. The amount of cash and description of any property contributed.
 - b. Whether the donee provided any goods or services in consideration for the contribution.
 - c. A description and good faith estimate of the value of any goods or services provided.
 - d. A statement that the donee provided intangible religious benefits (if that is the case.)
 - e. A CWA is contemporaneous if it is obtained on or before the earlier of the date on which the taxpayer files a return for the taxable year in which the contribution was made, or, the due date (including extensions) for filing such return.
 - f. Cautionary tale – Izen, Jr. v. Comm’r, 38 F. 4th 459 (5th Cir. 2022).
 - 2. Form 8283, Noncash Charitable Contributions.
 - a. A Form 8283 is not required for contributions of \$500 or less. However, if other contributions are made that require a Form 8283 in a given year, these contributions should be included in Section A.

iii. More than \$500, but not more than \$5,000.

1. Contemporaneous Written Acknowledgement
2. An Appraisal Summary - Form 8283, Noncash Charitable Contributions (Section A) which requires identifying:
 - a. The donor's name and tax ID number.
 - b. The name and address of the donee.
 - c. A description of the property and its condition.
 - d. The date the property was acquired.
 - e. How the property was acquired.
 - f. The donor's adjusted basis.
 - g. The fair market value of the property
 - h. The method determining the fair market value.

iv. More than \$5,000, but not more than \$500,000.

1. Contemporaneous Written Acknowledgement
2. An Appraisal Summary – Form 8283, Noncash Charitable Contributions (Section B), which includes similar information as does Section A, but also requires:
 - a. the signature of the donor,
 - b. a declaration of the appraiser, and
 - c. a donee acknowledgement.
3. A Qualified Appraisal

- a. In the case of contributions of property for which a deduction of more than \$5,000 is claimed, the donor must obtain a qualified appraisal. See Below.
- v. More than \$500,000
- 1. Contemporaneous Written Acknowledgement
 - 2. An Appraisal Summary – Form 8283, Noncash Charitable Contributions (Section B).
 - 3. A Qualified Appraisal
 - a. For contributions of property for which a deduction of more than \$500,000 is claimed, the donor must attach a qualified appraisal to the tax return.
 - b. Appraisal Requirements:
 - i. Be performed by a “Qualified Appraiser”
 - 1. Must have earned an appraisal designation from a recognized professional appraiser organization or meet minimum education and experience requirements.
 - 2. A minimum of two years’ experience in valuing a particular type of property.
 - ii. Be made not more than 60 days before the date of the contribution and no later than the due date of the return on which the deduction is first claimed (including extensions.
 - iii. Must include the following information:
 - 1. A description in sufficient detail under the circumstances, taking into account the value of the property, for a person who is not generally familiar with the type of

property to ascertain that the appraised property is the contributed property.

2. In the case of real property or tangible personal property, the condition of the property.
3. The valuation effective date.
4. The fair market value of the contributed property on the valuation effective date.
5. The terms of any agreement or understanding that relates to the use, sale or other disposition of the contributed property.
6. The date, or expected date, of the contribution to the donee.
7. The following information about the Qualified Appraiser:
 - a. name, address, tax ID number,
 - b. qualification to value the type of property including education and experience
 - c. the capacity in which the appraiser is acting
8. The signature of the appraiser.
9. A declaration of the appraiser.
10. A statement that the appraisal was prepared for income tax purposes.

11. The method of valuation used to determine the fair market value.

12. The specific basis for the valuation.

4. Exceptions to the Qualified Appraisal Requirement.

- a. Non-publicly traded stock of \$10,000 or less.
- b. A vehicle for which the deduction is limited to the gross proceeds of the sale.
- c. Qualified intellectual property (ex. patents).
- d. Certain publicly traded securities.
- e. Inventory and other corporate donations that are “qualified contributions” for the care of the ill, needy, or infants.
- f. Stock in trade, inventory or property held primarily for the sale to customers in the ordinary course of trade or business.

vi. Art.

- 1. Contributions of \$20,000 or more – a complete copy of the signed qualified appraisal must be attached to the return and a photograph (preferably 8/10) must be provided on request.

d. Reasonable Cause & Substantial Compliance

- i. The IRS takes the position that a charitable contribution deduction will not be allowed unless the substantiation requirements are satisfied.

ii. Reasonable Cause

- 1. IRC§170(f)(11) includes a provision that a charitable contribution shall not be disallowed for want of satisfying the substantiation requirements if the failure to meet the requirements is due to reasonable cause and not due to willful neglect.

2. The Standard:

- a. Since U.S. v. Boyle, 469 U.S. 241 (1985), the reasonable reliance on a tax professional standard has been frequently considered.
- b. The standard can be expressed as:
 - i. The adviser was a competent professional who had sufficient expertise to justify reliance.
 - ii. The taxpayer provided necessary and accurate information to the adviser.
 - iii. The taxpayer actually relied in good faith on the adviser's judgment.

3. Crimi v. Comm'r, T.C., Memo 2013-51.

- a. The taxpayer relied on the accountant's advice that the appraisal was valid.
- b. This was reasonable because he had worked with the accountants for over 20 years and there was no prior issue of accounting errors.
- c. All information had been provided to the accountant.
- d. The reliance was in good faith.

4. Alli v. Comm'r, T.C. Memo 2014-15.

- a. No reasonable cause where the appraisal lacked substantiation requirements.
- b. The appraiser's qualifications were not established.
- c. Incomplete information was provided.

d. Did not establish reliance.

5. Presley v. Comm’r, T.C. Memo 2018-171.

- a. An attorney had advised the donor to ensure that a Form 8283 would be attached to the tax return.
- b. The donor later claimed reliance on the accountant for subsequently failing to include the Form 8283.
- c. No reasonable cause was found to exist because the reliance was not reasonable.

iii. Substantial Compliance

1. Bond v. Comm’r, 100 T.C. 32 (1993).

- a. The donor had donated two blimps and received a verbal appraisal from a competent appraiser. While a Form 8283 was prepared and submitted with the return, no written appraisal was obtained before the return due date.
- b. The Tax Court allowed the deduction on the basis that the donor had substantially complied with the requirements.
- c. The Court reasoned that the substantiation requirements:

“do not relate to the substance or essence of whether a charitable contribution was actually made” and therefore, substantial compliance with the substantiation requirements is sufficient because the requirements are “procedural or directory in nature.”

The doctrine of substantial compliance requires strict adherence to statutory requirements that relate to the substance or essence of the statute, but substantial compliance is sufficient when the requirements are procedural or directory because they relate to the orderly conduct of business rather than to the essence of the statute.

III. Case Studies

a. Crypto Currencies

i. Cryptocurrencies are widely traded on exchanges with values generally consistent among trading platforms. Their value fluctuates but can be easily determined by reference to the values at which they trade on these exchanges.

ii. Chief Counsel Advice 202302012.

1. Donations of cryptocurrency in excess of \$5,000 require a qualified appraisal.
2. Cryptocurrency does not qualify for any exceptions to the Qualified appraisal requirement.
3. Using a cryptocurrency exchange value is not Reasonable Cause for the failure to satisfy the substantiation requirements.

iii. Cryptocurrency donation requirements are the same as for any other property.

1. Contemporaneous Written Acknowledgement.
2. Form 8283, Noncash Charitable Contributions.
3. Qualified Appraisal.

b. Hoensheid v. Comm’r, T.C. Memo 2023-34.

i. Facts:

1. Donor and two brothers were equal shareholders and decided to sell the company.
2. After the buyer was lined up, the shareholders consented to the sale and the donor’s charitable contribution.

3. On July 10, the company issued \$6.1M in bonuses.
4. On July 13, the shares were contributed to the charity
5. On July 14, the company liquidated and distributed to the shareholders.

ii. Anticipatory Assignment of Income –

1. “income is taxed to those who earn or otherwise create the right to receive it and that tax cannot be avoided by anticipatory arrangements and contracts however skillfully devised. “
2. “A person with a fixed right to receive income from property thus cannot avoid taxation by arranging for another to gratuitously take title before the income is received.
3. Holding regarding anticipatory assignment of income - The donor was required to recognize capital gain on the sale of the stock. The court looked to the substance, rather than form, of the underlying transaction and determined:
 - a. that the pattern outlined in the facts indicated that the sale was “practically certain to occur” by the time of the gift despite the remote and hypothetical possibility of abandonment.
 - b. The record established that the donor’s charitable contribution would not have been made but for the impending sale of the company stock.
 - c. To avoid an anticipatory assignment of income on the contribution of appreciated shares of stock followed by a sale by the donee, a donee must bear at least some risk at the time of the contribution that the sale will not close.
 - d. The Hoenscheid court did not establish a bright line rule.

iii. Failure to meet qualified appraisal requirements.

1. While the Tax Court determined that Hoensheid was required to recognize the capital gain on the sale of the stock under the anticipatory assignment of income doctrine, this determination did not resolve the charitable contribution issued entirely.
2. No charitable contribution deduction was allowed due to the failure to meet the substantiation requirements.

- a. The donor made a give in the form of an assignment of income.

- i. A charitable contribution is a gift of property to a charitable organization made with a charitable intent and without the receipt or expectation of receipt of adequate consideration.

Such a transfer was made, but, there was inadequate substantiation under the rules.

- ii. The donor failed to obtain a qualified appraisal.

1. The appraiser was not a Qualified Appraiser under the Treasury Regulations.

2. The appraiser's qualifications were not included in the appraisal.

3. The appraiser did not have appraisal certifications,

4. The appraiser did not have any experience conducting valuations for purposes of charitable donations.

5. The appraiser did not regularly perform appraisals for which he received compensation.

6. The incorrect date of the contribution was included in the appraisal

7. The reasonable cause exception did not apply.

c. Other Challenges to Qualified Appraisals.

- i. Insufficient description of donated property.
- ii. Insufficient description of the condition of the donated property.
- iii. The valuation effective date.
- iv. The fair market value of the property on the valuation effective date.
- v. The terms of any agreement between the donor and the donee restricting the use of the property or reserving rights and earmarks for use.
- vi. Information about the appraiser and signature.
- vii. The appraiser's declaration.
- viii. A statement that the appraisal was prepared for income tax purposes.
- ix. The method of valuation (i.e. income approach, sales comparison approach, cost approach).
- x. The specific basis for the valuation.

d. Challenges to Valuation

- i. In addition to challenging whether a charitable contribution occurred and whether the substantiation requirements were satisfied, the IRS will often also challenge the valuation made by criticizing:
 1. The valuation methods relied upon.
 2. The weight given to a particular method.
 3. The sales comparisons chosen by the appraiser.

4. The market analysis conducted by the appraiser.