

Date of Death Appraisal Services

Estate Appraiser | Retrospective Estate Valuations | Real Estate Death Tax Specialists
Los Angeles, Orange County, San Diego, Riverside County, San Bernardino County, Ventura County



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There are many estate planning or trust situations where you need an experienced, qualified, and designated real estate appraiser to prepare a retrospective "Fair Market Value" (FMV) date of death appraisal. Estates consisting of commercial, industrial or residential real estate may need valuations for different forms of ownership including fractional interests.

Estate Tax Filings and Date of Death Appraisals

As an executor or administrator of an estate you have been entrusted to carry out the wishes of the deceased estate plan as swiftly and exactly as possible. Federal estate tax returns are required whenever the total value of the decedent's assets exceed the applicable filing thresholds. Effective for 2009 if the total value of a decedent's assets exceed \$3,500,000, a Federal estate tax return will be required; for 2010 the estate tax has been repealed; for 2011 \$5,000,000 exemption and a maximum top tax rate of 35%, and for 2012 it will go back to \$1,000,000 exemption with a 55% tax rate unless congress acts again.

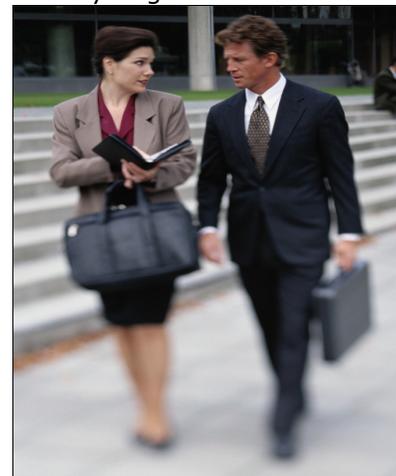


The IRS has issued a new [Form 8939](#) *Allocation of Increase in Basis for Property Acquired From a Decedent* and is due November 15, 2011. The form provides guidance to an executor of an estate on the treatment of basis for certain types of estates who died in 2010 to opt out of the estate tax and have the carryover basis rules apply. The new form must be attached to the decedent's final 2010 return if the decedent's gross estate exceeds \$1.3 million. The failure to do so could subject the taxpayer to a \$10,000 penalty. It is probably good practice to attach the 8939 form even if not mandatory for several reasons: (1) beneficiary basis can be established (2) to initiate a 3-year period for valuation challenges by the IRS.

For gift tax when the valuation of the gift exceeds \$13,000. Generally, for personal property Treasury Regulation Section 20.2031-6(b) generally requires that when any one article has a value exceeding \$5,000, or if the total value of a collection of similar articles has a value exceeding \$10,000, an appraisal must be filed with the return. As an executor of a decedent's estate your attorney, accountant, CPA, or tax professional will most likely be filing tax forms [1041](#), 1040(e), new [8939](#), takes the place of [706](#), [706A](#) to figure the estate tax imposed by Chapter 11 of the Internal Revenue Code or for gift tax [form 709](#), [1099-R](#) and [5498](#).

Choosing an Appraiser for Estate Planning

New proposed IRS Tax Regulations (26 CFR part 1) requires taxpayers to obtain a "qualified appraisal" on real property by a "qualified appraiser" as per IRC [Section 170\(f\)\(11\)\(E\)\(iii\)\(ii\)](#). The IRS has defined the appraisal standards that must be met along with verifiable minimum education, has earned an appraisal designation from a recognized organization, and/or have equivalent experience in valuing the type of property being appraised. The residential or commercial appraiser must have experience with [IRS Real Property Valuation Guidelines](#). Treasury Regulation Section 20.2031-1(b) requires a residential or commercial appraiser to follow the valuation guide lines when preparing a residential home or commercial real estate appraisal for tax purposes or retrospective date of death valuations. Moreover, the appraiser should hold a designation and be qualified as stated under regulations [Section 1.170A-17\(a\)](#). Additionally, information that should be stated in the appraisal is set forth in [Rev. Proc. 66-69, 1966 C.B. 1257](#). For example, utilizing the correct definition of "Market Value", "Use Value", "Fair Market Value", "Intrinsic Value", or "Investment Value" means the difference between a disputed appraisal and one that is prepared correctly. [Anselmo v. Commissioner](#), the Court states there is no distinction between the measure of "Fair Market Value" for estate and gift tax purposes and charitable contributions. In addition, Rev. Proc. 79-24, 1979-1 C.B. 565 indicates guide lines for the "Market Approach" also known as the "Market Comparison Approach", better known in appraising for federally related transactions as the "Sales Comparison Approach". Similarly, Rev. Rul. 68-609, 1968 C.B. 327 provides the general approach, methods and factors outlined in Rev. Rul. 59-60, 1959-1 C.B. 237. All of these requirements should be met when preparing date of death appraisals.



Any opinion of value (appraisal) prepared by a certified or licensed residential home or commercial real estate appraiser for use in planning an estate and in documents filed with the revenue authorities, should be well supported by a detailed report as to how the appraiser arrived at his conclusions. Such a report should demonstrate to the user that the appraisal is well founded, substantiated, and meets with Treasury Regulations and state agency requirements. It is also wise to avoid submitting an appraisal that is more than two years old and one that does not meet other specific IRS guide lines. Additionally, the IRS looks at the accreditation of the appraiser, the rationale of the "Fair Market Value" opinion, the validity of the comparable research, and the overall professionalism of the appraisal report.

Establishing Basis for Estate Planning Purposes

As an appraiser, we are often called upon to prepare a date of death appraisal for an estate or trust to establish "basis" for estate tax liability or trust purposes by a certified designated residential or commercial real estate appraiser. If the property was acquired from a decedent the basis is typically the fair market value on the date of the decedent's death (I.R.C. § 1014). An alternative valuation date may be chosen by the executor that is six months after the date of death, and typically, only if a tax savings can be shown by your tax preparer, accountant or real estate attorney.

Retrospective Commercial Appraisal

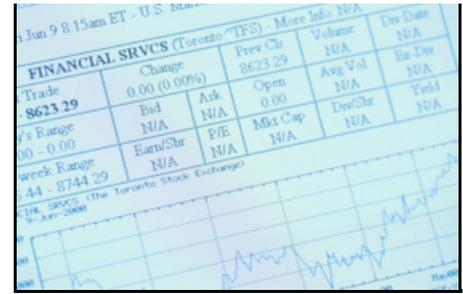
Often, the date of death (effective date of the appraisal) differs from the date of the inspection and the date of the appraisal report. As designated experienced real estate appraisers we are familiar with the procedures and requirements necessary to perform residential or commercial appraisals that match the retrospective date of death.

Because multiple listing services and many commercial real estate data base services often purge data after 3 or 4 years. Therefore, if an the effective date of an appraisal is over 3 years the appraiser must be aware of other residential or commercial data sources and how to utilize those data sources to obtain verifiable

comparable sales information.

Avoiding Penalties

Taxpayers may be liable for additional penalties if the valuation does not adhere to [IRS Real Property Valuation Guidelines](#). Penalties can range from approximately 20% to 40%. In preparing a date of death appraisal for estate tax return filing purposes the IRS requires the appraiser to follow [IRS Real Property Valuation Guidelines](#) and [specific appraisal guidelines](#). In addition, it is also important to provide a well documented home appraisal or commercial appraisal with the appropriate valuation techniques, especially if [fractional interest & blockage discounts](#) or [other interests](#) are involved. In some cases, this could mean the difference of whether or not the respondent is required to pay additional estate tax. Moreover, if the estate tax is later challenged in a court of law, the appraiser must be qualified to testify as an expert witness on behalf of the respondent.



Reviewing the Appraisers Credentials

We believe appraisals prepared or supervised by a Member of the Appraisal Institute are among the highest quality in the appraisal industry. Appraisal Institute Members who hold the highest industry appraisal designations have the necessary real estate educational background and years of appraisal experience needed to properly complete appraisals. **Warren K. Hoppke, SRPA, ASA** Principal of AppraiserValues.com is a Member of the Appraisal Institute and a Senior Real Property Analyst and has over 30 years experience in both residential and commercial appraisals.



Attorneys, accountants, financial planners, executors and others rely on AppraiserValues.com for "date of death" real estate valuations and trust appraisal services because we have years of real estate experience and training in preparing residential and commercial appraisal reports. Utilizing the correct definition of "Market Value" or "Fair Market Value" is just one of the many IRS guide lines that we follow in preparing valuations for estate planning and tax purposes.

Real estate isn't like publicly traded stock or other items which fluctuate in value daily. You need a professional designated commercial real estate appraiser to determine "Fair Market Value", who is bound by the Uniform Standards of Professional Appraisal Practice (USPAP) for a high degree of confidentiality and professionalism. Additionally, you need the kind of quality report and work product IRS and taxing authorities, courts, and real estate attorneys want and expect.

For more information click on [estate planning Tax appraisals](#) or expert witness. Please browse our website to learn more about our qualifications, expertise and services offered.

Fractional Interest Valuation

Real estate can be held under various forms of ownership including cotenancy (undivided fractional interests), partnership, LLC, Q-Tip Trusts, and other forms of ownership. The type of ownership can affect the valuation.



Real Estate Planning

By **Robert J. Bruss**
[Inman News](#)

Here are some additional issues that frequently arise regarding principal residence sales:
1 – Principal residence sale in the year of a spouse's death. IRC 121(b)(2) says the \$500,000 principal residence sale exclusion is available for the sale of the marital home if the sale closes in the year of the spouse's death. Although the IRC considered extending this time limit beyond the year

tax year or a spouse's death. Although the IRS considered extending this time limit beyond the year of a spouse's death, it found there is no authority to do so without the approval of Congress. The tax reason is that a surviving spouse can only file a joint tax return with the deceased spouse for the tax year of that spouse's death, but not in future tax years after that.

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However, this is not such a "big deal," as many surviving spouses believe. If the surviving spouse inherits the deceased spouse's half of the home, the surviving spouse receives a new basis on that inherited 50 percent "stepped-up" to market value as of the date of the spouse's death. If the principal residence is in a community property state, the surviving spouse usually receives a new stepped-up basis on 100 percent of the home's entire market value on the date of death.

This stepped-up basis for the deceased spouse's interest in the home usually is far more important than the \$500,000 principal residence sale tax exemption, which is available only in the year of death when a joint income tax return can still be filed.

The only time the surviving spouse is usually hurt financially occurs if title to the residence was held in the name of the surviving spouse alone so there was nothing to inherit from the deceased spouse. Then the surviving spouse does not receive a new stepped-up basis because he or she already held full title.

2 – Holding title in a living trust doesn't change eligibility for the \$250,000/\$500,000 exemption. When title to a principal residence is held in a trust for the benefit of the trustor, such as a living trust that avoids probate costs and delays, the method of holding title is disregarded for purposes of IRC 121 tax exemptions. "The sale by the trust will be treated for federal income tax purposes as if made by the grantor," IRS regulations explain.

3 – Sale of a partial interest in a principal residence won't increase the exemption. At the time a qualified principal residence owner sells a partial interest in the home, such as a sale to a son or daughter, that sale can qualify for the \$250,000 or \$500,000 exemption.

But this is not a tax loophole to allow the seller one exemption for a partial sale now and another exemption in the future when selling another partial interest. The IRS regulations clearly state that the maximum \$250,000/\$500,000 exemptions cannot be exceeded when selling partial interests in the seller's principal residence.

4 – Exempt principal residence sales need not be reported to the IRS. The IRS regulations state: "Reporting of an excluded gain is unnecessary and would be unduly burdensome for taxpayers."

However, if your principal residence sale is partially taxable, such as when your capital gain exceeds the \$250,000 or \$500,000 exemption, your home sale should be reported on Schedule D of your federal income tax returns, clearly showing the exclusion amount.

Summary: The \$250,000 and \$500,000 principal residence sale capital gain exclusions are major tax benefits for home sellers who understand how to maximize their exemptions. More details can be found in the IRS Regulations at IR-2002-142, available on the IRS Web site at www.irs.gov/newsroom with a link to the IR regulations as published in the Federal Register.

(For more information on Bob Bruss publications, visit his [Real Estate Center](#)).

What's your opinion? Send your Letter to the Editor to opinion@inman.com.

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Definitions:

Executor (Executors) An executor is the personal representative, executor, executrix, trust administrators, or administratrix of the deceased person's estate. If no executor is appointed, qualified, and acting in the United States, every person in actual or constructive possession of any of the decedent's property must file a tax return. If more than one person must file, it is preferable that they join in filing one complete return. Otherwise, each must file as complete a tax return as possible, including a full

description of the property and each person's name who holds an interest in it.

We provide real estate appraisal services for federal and state estate tax return filings, charitable contribution, gift planning, donation, donee beneficiary, inheritance tax planning, financial planning of an estate or living trust, trusts & wills, family trust, tax liability requiring an appraisal for IRS purposes, disposition of an asset under a will or in probate, estate planning attorney services, law and litigation support, retrospective appraisal death tax, IRS 706 filing, setting up a family trust or family limited partnership, partnership dissolution, corporation asset valuations, appraisal services for partitioning of property in an estate or trust, fractional valuations, partial interest, revocable living trust, charitable remainder trust, gift 709 filing, tax liens, tax appeal, probate, bankruptcy, alternative valuation date 706-NA tax return filing, appraisals for litigation purposes including real estate expert witness testimony, tax attorney appraisal services, and real estate litigation support services.

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