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Appraisers Urge IRS to Rewrite Proposed Circular 230 Rules

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The IRS should not mandate adherence to specific valuation standards for appraisals submitted to the agency, urged valuation experts who spoke at a March 6 hearing over proposed changes to Circular 230. Rather than identify specific standards, appraisers should be held to any generally accepted valuation standard based on the credential they hold.

If planned changes to IRS Circular 230 go through as proposed, appraisers will be required to comply with Uniform Standards of Professional Appraisal Practice (USPAP) or International Valuation Standards (IVS) for tax-related valuations.[1] Circular 230 contains rules not only for appraisers, but also for anyone practicing before the IRS, such as tax practitioners, enrolled agents, and tax attorneys. The roster of 13 speakers included individuals from these stakeholder groups.

Two out of three. Of the three U.S. valuation professional organizations (VPOs), only the AICPA and NACVA were represented. The ASA was not represented at the hearing, although it submitted written comments (as did the AICPA and NACVA).

The AICPA, represented by Edward Jenkins Jr. (Jenkins and Co. LLC), “strongly opposes” the identifying of particular standards, arguing that it creates conflicts with existing enforceable standards from other organizations and undermines the AICPA’s ability to govern its members’ valuation practices. AICPA members are not required to follow USPAP or IVS. “Ceding control over the valuation standard which our members are held is unacceptable to us,” he said. If the proposed regulation, when finalized, contains specific valuation standards, it must also contain the AICPA valuation statements (SSVS). But the AICPA recommends a holistic approach that focuses on the professional qualifications of the appraiser rather than narrowly prescribing appraisal standards.

The AICPA also emphasized the need for the IRS to consider comments it made back in 2021, which were not addressed in the proposed regulations, and expressed willingness to collaborate further with the IRS on these issues.

NACVA out in force. Three speakers representing the National Association of Certified Valuators and Analysts (NACVA) appeared at the hearing, the most from any single organization. Overall, they collectively advocated for regulatory fairness, recognition of multiple valuation standards, and due process in determining appraisers’ qualifications and reputability. NACVA members are not required to comply with USPAP or IVS.

Trisch Garthoeffner (Anchor Business Valuations & Financial Services) emphasized the importance of harmonization among various VPO standards. She pointed out that NACVA has developed comparison charts demonstrating the alignment between the different standards and how IRS agents are trained accordingly. She argued that the proposed emphasis on USPAP and IVS, without recognizing other generally accepted standards, could create unnecessary confusion among IRS employees and appraisers. She urged for consistency across federal agencies and regulations to ensure fairness and reduce regulatory conflicts.

The group's second speaker, Dalton Hopper (BMSS Advisors & CPAs), is on NACVA's standards board. He raised concerns about the proposal's potential to exclude competent professionals who follow standards other than USPAP and IVS. He cautioned that enforcing uniformity might not serve the broader valuation profession or taxpayers' interests. He highlighted potential unintended consequences, such as erroneous report rejections, increased administrative burdens, and higher compliance costs, which could lead to fewer available or affordable valuation professionals. He urged the Treasury and IRS to acknowledge all appraisal standards that align with fundamental valuation principles instead of prioritizing specific ones.

NACVA's third speaker, T.J. Liles-Tims (Weaver), focused on the disqualification of appraisers under the proposed regulations. He questioned the broad authority given to the IRS commissioner to determine an appraiser's reputability and recommended that any disciplinary actions be handled by the appraiser's respective VPO rather than unilaterally by the IRS. He expressed concerns about the subjective nature of "disreputable conduct" and how its vague definition could lead to the unfair exclusion of professionals. He urged that appraisers be required to declare their compliance with their respective VPO standards and confirm they are not under disciplinary investigation, rather than having the IRS make unilateral determinations.

ASA differs. The ASA did not have someone speak at the hearing, but, based on its written comments, the organization, unlike the other two VPOs, has no issue with the IRS' recognition of USPAP. The ASA emphasizes that all its members practicing in the U.S. adhere to USPAP, and it see its inclusion in the IRS' regulations as a vital step in maintaining public trust and professionalism in the appraisal field. It also acknowledges the mention of the IVS in the proposed rule but requests clarification on how the IRS intends to integrate USPAP and IVS into its regulatory framework to ensure consistency and compliance.

In its comment letter, the ASA does not mention any other specific standards beyond USPAP and IVS, and it does not advocate for additional standards to be included in the rules (not even its own). It expressed concern that, while the IRS is strengthening its authority to regulate appraisers, there is little indication that IRS personnel responsible for reviewing appraisals are held to the same professional standards. To address this, the ASA offered to assist in training or educating IRS staff on USPAP, stating that it is ready and willing to help improve the expertise of IRS officials to ensure fair and consistent enforcement.

In addition to the VPOs, several other speakers addressed the appraisal provisions in the proposed rules. They included Howard Lewis, representing the International Society of Appraisers and NEBB Institute; Megan Glosser (GBX Group), representing The Appraisal Institute; and Lindsay Carpenter for the National Taxpayer Union Foundation. A few points and recommendations they made include:

- While the proposed IRS rule attempts to establish USPAP as the "gold standard" for private appraisals, courts have not consistently required adherence to these standards in cases involving the IRS;
- USPAP contains a large and complex set of rules, and a single violation—no matter how minor—could lead to an appraiser's disqualification and unintended and overly harsh consequences;
- IRS staff who evaluate appraisers should hold credentials in appraisal review;
- Under the proposed rule, the IRS could disqualify an appraiser without first assessing a penalty, meaning that vague accusations of recklessness or gross incompetence could be alleged without a fair defense or independent adjudication;

- The risk of arbitrary penalties and disqualification would deter professionals from engaging in IRS-related appraisal work, which would exacerbate the current shortage of qualified appraisers; and
- Instead of the IRS acting as both judge and jury, an independent appraisal review board was suggested.

The hearing lasted less than two hours, and speakers were given 10 minutes each, so their oral comments were not as extensive as their written comments in some cases. All written comments have been posted online and can be found on the Regulations.gov website.[2]

After considering the written and oral comments, Treasury and the IRS will prepare a final form of the proposed regulations. They may ask for additional questions/comments. Otherwise, a final version will be published in the *Federal Register.* There typically is no specific deadline for finalizing regulations.

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1 “USPAP/IVS Front and Center in Proposed Regs for Tax Valuations,” *Business Valuation Update*, Vol. 31, No. 2, February 2025.

2 regulations.gov/document/IRS-2024-0063-0002/comment.