VALUATION SERVICES FOR
<u>NON-PROFIT INSTITUTIONS</u>

The range (type) of valuation and appraisal services for non-profit institutions is similar to those provided the **<u>For Profit</u>** sector. Depending upon the specific requirements, businesses and business assets must be valued on a regular basis.

<u>Charity</u>

The most common appraisal is to support the value of a donation of stock or assets to a charity. The IRS requires that certain donated property valued above $5,000 be supported by an appraisal and a signed Form 8283.

Major shareholders of a selling business often donate a portion of the stock to a charity prior to the sale of the business. The value of donated stock reduces the taxable portion of the proceeds to be received. In order for this transaction to pass IRS scrutiny, the shares must be donated to a charity prior to the consummation of a signed purchase agreement.

For estate and income tax planning purposes, Charitable Remainder Trusts (CRT) are often established by contributions of real property or other income producing assets. The value of assets contributed to the CRT must be established.

<u>Trust</u>

In addition to the CRT, there are other types of trusts created for estate planning purposes. Assets placed in these trusts must be appraised. In some cases, private company stock must be revalued on a yearly basis via an independent appraisal. Minority interests in these assets that are transferred may be discounted from prorata value. This gifting or transfer procedure allows taxable value to be removed from an estate.

The trustee of a trust has a fiduciary duty to the beneficiaries of the trust. When required by the terms of a trust, asset and/or income distributions may be based on current value.

<u>Foundation</u>

Treasury regulations require certain foundations subject to favorable tax treatment to dispense a certain percentage of asset value each year. A well-conducted valuation may be required to establish the average annual value of foundation assets and the amount of the required distribution.

The receipt of property by a foundation also triggers a current appraisal. The foundation balance sheet is restated each year at market value.

University/College

Institutions of higher education receive contributions in the form of non-monetary assets. The underlying value must be established by the donating party to support the charitable contribution deduction. Often the school contracts for an independent appraisal, even when the donor's value is provided, in order to support the value on the school's balance sheet.

Federal government grants are sometimes tied to the utilization of certain assets. These assets may be used for specific research or development in select programs. The asset value/basis and related depreciation may determine an expense reimbursement within the grant provisions. In some instances, intellectual property is created with non-profit funds and research. The sale or licensing of these intangibles to other parties – universities, government agencies or private/public companies – must be premised on sound and supportable valuation procedures.

The rights of one (or more) school to the value of created intangibles may be the subject of significant litigation. Again, valuation experts and testimony are often required to resolve these disputes.

Transfer of Assets

The transfer of assets from a non-profit entity may be subject to Federal income tax. A tax is imposed if the fair market value of the assets transferred is in excess of the consideration received in exchange. In addition, an excise tax under Section 4958, I.R.C. may be imposed to beneficiaries of "excess benefit transactions".

When a non-profit organization sells assets or merges with a for-profit entity, the assets must be valued. This is particularly important in the case of an asset sale to an insider.

Compensation and Benefits

Under Section 4958, I.R.C., an excise tax may be imposed against entities that are tax exempt under sections 501(c)(3) and 501(c)(4). These include virtually all charitable, religious and other public benefit and mutual benefit organizations, and all private foundations.

This penalty or excise (25% of the excess benefits) is assessed against managers and directors who approve any transaction in which economic benefit provided a "disqualified person" is considered excessive. A "disqualified person" is anyone whom during the five preceding years was/is in a position to exercise substantial influence over the organization's affairs, a member of that person's family, or a 35 percent controlled entity.

The regulations look at all financial transactions – compensation; benefit such as housing allowances, retirement plan contributions, insurance; vendor and consultant payments; asset sales and purchases, etc. The board must consider comparisons of similar compensation packages. The value of the property or other benefits should be based on fair market value. If the board relies on the reasoned opinion of a qualified independent valuation expert, they may be protected from an extra 10% penalty (10% of the excess benefits).