

UIL 4945.00-00



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

200409040

Date: DEC 3 2003

Contact Person:

ID Number:

Contact Number:

Employer Identification Number:

Dear Sir or Madam:

This is in reply to a letter dated February 11, 2003, from your authorized representative requesting advance approval of your grant making procedures pursuant to the provisions of section 4945 of the Internal Revenue Code.

You are exempt from federal income tax under section 501(c)(3) of the Code and are a private foundation within the meaning of section 509(a).

You have previously received advance approval under section 4945(g)(1) of the Code for the procedures to be employed by you for awarding scholarship grants to individuals for science, mathematics and technology studies. **You** now propose to pay to educational institutions for the benefit of students receiving such scholarships additional amounts to cover expenses for (a) room and board and (b) research activities as described below.

In addition to the room and board payments, you propose to pay the educational institutions attended by your scholarship recipients funds to cover costs associated with the students participation in supplemental scientific or mathematical research activities that may go beyond the student's regular courses of curriculum. By reimbursing educational institutions agreeable to your proposal for the use of their equipment and facilities, you hope to avoid problems associated with ownership, patent, royalty and exploitation rights which an institution might assert by reason of its sponsorship or "deemed funding" of such research activities. **You** would disperse such amounts to an agreeable college or university to defray the costs of the deemed university funding, thereby preserving the student's ownership rights in any research results.

You have requested the following rulings:

1. Grants to be awarded under your proposed program to institutions for the benefit of new grant recipients for (a) room and board and (b) research activities as described in your ruling request will not be taxable expenditures under section 4945(g)(1) of the Code.
2. If institutions that are already receiving grant funds under your previously approved program use a portion of the grant funds to pay for a recipient's (a) room and board and (b) research activities as described in your ruling request, the amounts so used will not be taxable expenditures under section 4945(g)(1) of the Code.

Section 501(c)(3) of the Code provides, in part, for exemption from federal income tax for a corporation organized and operated exclusively for charitable, scientific or educational purposes provided no part of the corporation's net earnings inures to the benefit of any private shareholder or individual.

Section 509(a) of the Code provides that, unless specifically excepted, a domestic or foreign organization described in section 501(c)(3) is a private foundation and subject to the excise taxes of Chapter 42.

Section 4945(a) of the Internal Revenue Code imposes an excise tax on each taxable expenditure made by a private foundation.

Section 4945(d)(3) of the Code provides that the term "taxable expenditure" means any amount paid or incurred by a private foundation as a grant to an individual for travel, study, or similar purposes by such individual, unless such grant satisfies the requirements of section 4945(g).

Section 4945(g) of the Code provides that section 4945(d)(3) shall not apply to an individual grant awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance by the Secretary, if it is demonstrated to the satisfaction of the Secretary that--

(1) the grant constitutes a scholarship or fellowship grant which would be subject to the provisions of section 117(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) and is to be used for study at an educational organization described in section 170(b)(1)(A)(ii),

(2) the grant constitutes a prize or award which is subject to the provisions of section 74(b) (without regard to paragraph (3) thereof), if the recipient of such prize or award is selected from the general public, or

(3) the purpose of the grant is to achieve a specific objective, produce a report or other similar product, or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar capacity, skill, or talent of the grantee.

Section 53.4945-4(d)(3) of the Foundation and Similar Excise Taxes Regulations provides that if, by the 45th day after a request for approval of grant procedures has been properly submitted to the Service, the organization has not been notified that such procedures are not acceptable, such procedures shall be considered as approved from the date of submission until receipt of actual notice from the Service that such procedures do not meet the requirements of section 4945(g). If a grant to an individual for a purpose described in section 4945(d)(3) is made after notification to the organization by the Service that the procedures under which the grant is made are not acceptable, such grant is a taxable expenditure.

Sections 4945(a) and (b) of the Code impose certain excise taxes on the taxable expenditures of private foundations. Section 4945(d)(3) defines taxable expenditures as including any grant to an individual for travel, study or other similar purposes, unless the grant satisfies the requirements of section 4945(g). Section 4945(g) provides that subsection 4945(d)(3) shall not apply to an individual grant awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance by the Secretary that (1) the grant constitutes a scholarship or fellowship grant that would be subject to the provisions of section 117(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) and (2) is to be used for study at an educational organization described in section 170(b)(1)(A)(ii) of the Code.

Section 117(a), as then in effect, provided generally that, in the case of an individual, gross income did not include (1) any amount received as (a) a scholarship at an educational organization

described in sections 170(b)(1)(A)(ii) or (b) as a fellowship grant, including the value of contributed services and accommodations; and (2) any amount received to cover expenses for (a) travel, (b) research), (c) clerical help or (d) equipment, which are incident to such a scholarship or to a fellowship grant, but only to the extent the amount is so expended by the recipient.

Section 1.117-1(b) of the Income Tax Regulations provides, in part, that the requirement that the expenses referred to in section 117(a)(2), above, be incident to the scholarships or the fellowship grant means that the expenses of travel, research, clerical help, or equipment must be incurred by the individual in order to effectuate the purpose for which the scholarship or fellowship grant was awarded.

Section 1.117-3 of the regulations, defines, in part, a scholarship or fellowship grant as including the value of contributed services and accommodations, and the amount of tuition, matriculation, and other fees which are furnished or remitted to a student to aid him or her in the pursuit of studies. Contributed services and accommodations are defined as including such services as room and board, laundry service, and similar services or accommodations which are received by an individual as part of a scholarship or fellowship grant.

Based on the information submitted, your proposed awards for room and board expenses are within the definition of contributed services and accommodations and thus are excludable scholarships under sections 1.117-3(a) and (d) (the law as then in effect). In addition, your proposed reimbursement of an academic institution's research costs and expenses also constitutes a scholarship or fellowship grant under section 1.117-3(a) (the law as then in effect). However, these defrayed university expenses are neither contributed services and accommodations nor amounts received to cover incidental research expenses, but rather constitute amount(s) of tuition, matriculation, and other fees which are furnished or remitted to a student to aid in the pursuit of studies within the contemplation of section 1.117-3(a) of the regulations. This matter is addressed in Rev. Rul. 67-85, 1967-1 C.B. 25, where an amount made available to an educational organization by the grantor of a fellowship award for expenses incurred in the training of an award recipient was determined to be in the nature of tuition, and as such, a part of the recipient's fellowship award. In that case, the grantor of a fellowship award to a non-degree candidate made an additional amount available to the educational organization primarily to defray the expenses involved in training the fellowship recipient. The revenue ruling concludes that such a payment would appear to be in the nature of tuition and thus a part of the scholarship or fellowship grant within the meaning of section 1.117-3 of the regulations. See, also, Rev. Rul. 71-344, 1971-2 C.B. 94, distinguishing such expenses from section 117(a)(2) incidental research and other expenses incurred by a fellowship recipient.

Accordingly, we rule as follows:

1. Grants to be awarded under your proposed program to institutions for the benefit of new grant recipients for (a) room and board and (b) research activities as described in your ruling request will not be taxable expenditures under section 4945(g)(1) of the Code.
2. If institutions that are already receiving grant funds under your previously approved program use a portion of the grant funds to pay for a recipient's (a) room and board and (b) research activities as described in your ruling request, the amounts so used will not be taxable expenditures under section 4945(g)(1) of the Code.

These rulings are conditioned on the understanding that there will be no material change in the facts upon which they are based.

This ruling is directed only to the organization that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Sincerely Yours,

(signed) Marvin Friedlander

Marvin Friedlander
Manager, Exempt Organizations
Technical Group 1