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

200001049

Date: OCT 14 1999

OP:E:ED:T:2

Contact Person:

ID Number:

Telephone Number:

Employer Identification Number:

Dear Sir or Madam:

This is in reply to your letter of October 15, 1998, as amended by your letter of July 12, 1999, concerning the impact funding certain research activities will have on your tax exempt status under section 501(c)(3) of the Internal Revenue Code and requesting approval of your grant making procedures as required by section 4945 of the Code.

You have been recognized as exempt under section 501(c)(3) of the Code and are a private foundation within the meaning of section 509(a).

You were established to engage in research in the natural and physical sciences and to further research in religion, including comparative religion. You are primarily interested in the fields of parapsychology and metaphysics. Your activities involve directly engaging in research activities, making grants to facilitate certain research activities, and providing scholarships or fellowships to assist others in engaging in such research or studying in the fields of natural and physical sciences, comparative religion and similar courses.

You have indicated that some of the research performed for you will be done by the son and daughter-in-law of your founder. The founder, his son and his daughter-in-law are members of your Board of Advisors, which appears to control all your activities, including selecting grant recipients. You represent that all these individuals have extensive experience in the field of parapsychology. You propose to advance them the money needed to make research trips related to your field of study. The monies will be used for paying for the costs of transportation, lodging, food, and certain incidental expenses they may incur on these research trips. You have represented that the expenses you expect them to incur will not be excessive.

You have also requested advance approval of your procedures for making certain grants to individuals. You have represented that grant recipients will be selected on an objective and nondiscriminatory basis from a large pool of potential applicants. As indicated in your letter of July 12, 1999, you intend to make grants to facilitate research activities, to provide scholarships or fellowship for students to study and to make grants to ministers and religious leaders to support teaching that is inclusive of parapsychology. The grants you propose to provide include fellowship grants used for study on a subject identified by you or to produce a book or report on a topic that will help you accomplish your charitable purposes. Your proposed procedures include steps to

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recover jeopardized grants and you will maintain detailed records regarding the grants you will make. These records will include (i) all information secured to evaluate the qualification of potential grantees; (ii) identification of grantees including names, addresses and any relationship to member of the Board of Trustees; (iii) the amount and purpose of each grant; (iv) reports and other information received from grantees relating to the Foundation's supervision of the grants or investigation of jeopardized grants. You have represented that grants will not be made available to relatives of your Trustees.

You have represented that you have not made any grants to individuals.

As amended by your letter of July 12, 1999, you have requested the following rulings:

1. that payments to disqualified persons for research and educational activities will not be a per se violation that would jeopardize your status under section 501(c)(3) of the Code or cause it to be subject to the excise tax imposed by section 4941(a) of the Code; and

2. that your procedures for making grants to facilitate research activities, to provide scholarships or fellowships for students to study and grants to ministers and religious leaders to support teaching that is inclusive of parapsychology satisfy the requirements of section 4945(g)(3) and will not be taxable expenditures within the meaning of section 4945(d)(3).

Section 501(c)(3) of the Code exempts from Federal income tax organization organized and operated exclusively for charitable or educational purposes.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations states that in order to be exempt as an organization described in section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more purposes specified in that section. If an organization does not meet either the organizational or the operational test, it is not exempt.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

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 4941(a) of the Code imposes an excise tax on each act of self-dealing between a disqualified person and a private foundation.

Section 4941(d)(1) of the Code defines self-dealing as including a sale or exchange of property or the extension of credit between a foundation and a disqualified person whether done directly or indirectly.

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Section 53.4941(d)-2(c) of the Foundation and Similar Excise Tax Regulations provides that except as provided in subparagraphs (2), (3), and (4) of this paragraph, the lending of money or other extension of credit between a private foundation and a disqualified person shall constitute an act of self-dealing.

Section 53.4941(d)-3(c)(1) of the regulations provides that in general the payment of compensation (and the payment or reimbursement of expenses, including reasonable advances for expenses anticipated in the immediate future) by a private foundation to a disqualified person for the performance of personal services which are reasonable and necessary to carry out the exempt purpose of the private foundation shall not be an act of self-dealing if such compensation (or payment or reimbursement) is not excessive.

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) 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)(1) 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 the grant constitutes a scholarship or fellowship grant which is subject to the provisions of section 117(a) and is used for study at an educational organization described in section 170(b)(1)(A)(ii).

Section 4945(g)(3) 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 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(a)(3)(ii) of the Income Tax Regulations concerns grants made for section 4945(d)(3) purposes. It provides, in part, that if a grant is made to an individual for a purpose described in section 4945(g) of the Code and the grant otherwise meets the requirements of section 4945(g), such grant shall not be treated as a taxable expenditure even if it is a scholarship or fellowship grant that is not excludable from income under section 117.

Section 53.4945-4(b)(1) of the Regulations sets forth standards for determining whether grants to individuals awarded under section 4945(g) of the Code are made on "an objective and nondiscriminatory basis."

Section 4946(a)(l) defines the term "disqualified persons" with respect to a private foundation as including a substantial contributor to the foundation and a foundation manager. It also includes a member of the family of any individual described above.

Section 4946(b) defines the term foundation manager as including an officer, director, or trustee of a foundation or an individual having powers or responsibilities similar to those of officers, directors, or trustees of the foundation.

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Section 4946(d) states that the term "a member" of the family of a disqualified person includes the spouse, children of and grandchildren of a disqualified person.

The information submitted establishes that you are a private foundation and intend to engage in a program of making gifts and grants to individuals to engage in research for you or to enter into study programs in your field of expertise. You also expect that some research will be engaged in by two members of your Advisory Board. These individuals are considered disqualified persons because of their relationship to your founder and/or because of the powers and responsibilities they have regarding your activities.

As a general rule an organization may pay reasonable compensation to individuals performing services for it without jeopardizing its tax exempt status under section 501(c)(3) of the Code. Similarly section 53.4941-3(c)(l) of the regulations provides that even paying salaries or making advances to disqualified persons, as defined in section 4946(a)(l), may be permissible. However, such payments must be reasonable and determining the reasonableness of compensation is a question of fact and it is generally not possible to make a determination in such matters until after the expenses have been incurred. Therefore, we are unable to rule whether the compensation you may pay your founder's son or daughter in law will either jeopardize you status as an organization described in section 501(c)(3) or be an act of self-dealing within in the meaning of section 4941 of the Code. However, it is clear under the law that paying compensation or advancing expenses to individuals who are disqualified persons will not per se jeopardize your status as an organization described in section 501(c)(3) or be an act of self-dealing within the meaning of section 4941.

In addition, based upon the information you submitted, and assuming your program will be conducted as proposed, with a view to providing objectivity and nondiscrimination in the awarding of grants, we rule that your procedures in the awarding of scholarship grants comply with the requirements of section 4945(g)(1) of the Code. Expenditures made in accordance with these procedures will not constitute "taxable expenditures" within the meaning of section 4945(d)(3) of the Code, and as such are eligible for the exclusion from income provided for in section 117(a) of the Code to the extent that such grants are actually used for qualified tuition and related expenses within the meaning of section 117(b)(2) of the Code.

Furthermore, we have given consideration to your general grant-making procedures under section 4945(g) of the Code. Based on the information submitted and assuming your grant program will be conducted as proposed, with a view to providing objectivity and nondiscrimination in awarding grants, we have determined that your procedures in awarding general research grants and grants to ministers and religious leaders to support religious teaching that is inclusive of parapsychology (describe by you as teaching grants) comply with the requirements of section 4945(g)(3), and that grants made according to these procedures will not be "taxable expenditures" within the meaning of section 4945(d)(3).

This ruling is conditioned on the understanding that there will be no material change in the facts upon which it is based. It is further conditioned on the premise that no grants will be awarded to your organization's creators, officers, directors, trustees, or members of the selection committee, or for a purpose that is inconsistent with the purposes described in section 170(c)(2)(B) of the Code.

The approval of your grant-making procedures is a one time approval of your system of standards and procedures for selecting recipients of grants that meet the requirements of section

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4945(g)(1) of the Code. Thus, approval will apply to succeeding grant programs only as long as the standards and procedures under which they are conducted do not differ materially from those described in your request.

Any funds you distribute to individuals must be made on a true charitable basis in furtherance of the purposes for which you are organized. Therefore, you should maintain adequate records and case histories so that any or all grant distributions can be substantiated upon request by the Internal Revenue Service.

Accordingly, based on the information submitted and the representations you have made we have concluded that:

1. that payments to disqualified persons for research and educational activities will not be a per se violation that would jeopardize your status under section 501(c)(3) of the Code or cause it to be subject to the excise tax imposed by section 4941(a) of the Code; and

2. that your procedures for making grants to facilitate research activities, to provide scholarships or fellowships for students to study and grants to ministers and religious leaders to support teaching that is inclusive of parapsychology satisfy the requirements of section 4945(g)(3) of the Code and will not be taxable expenditures within the meaning of section 4945(d)(3).

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

We are informing your key District Director of this ruling. Because this letter could help resolve any question about your exempt status, you should keep it in your permanent records.

If you have any question about this ruling, please contact the person whose name and telephone number are shown in the heading of this letter. For other matters, including questions concerning reporting requirements, please contact your key District Director.

Sincerely,

(signed) Garland A Carter

Garland A Carter
Chief, Exempt Organizations
Technical Branch 2