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

200117046

Date: FEB 01 2001

Contact Person:

ID Number:

Contact Number:

T:EO:B2

Employer Identification Number:

Dear Sir or Madam:

This is in reply to your letter of August 1, 2000, requesting advance approval of your grant making procedures pursuant to the provisions of section 4945 of the Internal Revenue Code and that. certain other grants to individuals are not taxable expenditures within the meaning of section 4945(d)(3) of the Code.

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

Although originally issued an advance ruling as a publicly supported organization, at the end of your advance ruling period you were classified as a private foundation within the meaning of section 509(a). You intend to expand your charitable grant program to include awarding a potentially wide variety of scholarship and fellowship grants, prizes and awards and other grants to individuals. Accordingly, you have requested advance approval under section 4945(g) of the Code of the procedures to be employed by you in making various grants and prizes and awards to individuals. You have represented that you will be providing grants or awards through three separate programs.

The first program, you propose to establish will be a program to award scholarship and fellowship grants to students pursuing a post-secondary or an advanced degree, who are enrolled at educational institutions described in section 170(b)(1)(A)(ii) of the Code, and who demonstrate a record of academic achievement in the chosen field of study or the potential and desire for academic achievement in the chosen field of study. You have indicated that financial need may also be considered in determining to whom a grant will be awarded. You have not decided whether you will award gifts or loans. However, grantees will be selected on an objective and nondiscriminatory basis.

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Your second program will be designed to make prizes and awards within the restrictions set forth in section 74(b) without regard to paragraph (3) thereof. The prizes and awards will recognize those individuals who have either demonstrated extraordinary academic achievement or made significant contributions to their communities or toward the achievement of your exempt purposes. This program began during your advance ruling period and you intend to continue the program and expand it. Awards made under this program will be neither a scholarship nor a grant made to support future charitable activities by the grantee but rather, a prize in recognition of past achievement. Therefore, you will not supervise or monitor the use of the prize funds by individuals.

Your final program will be making grants to individuals to enable them to study, conduct research, 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 grantees, or for specific projects selected by your Board of Directors that promote you exempt purposes. You have represented that your board will select grant recipients on an objective and nondiscriminatory basis. Grantees will agree to use the funds only for the purpose of the grant, to return any funds not so expended and to submit reports to you at the conclusion of the grant period and, also, annually, if one year or more passes between the date of the grant and the completion of the project. Publications, studies, or research funded by the Foundation will generally b made available to the public for its benefit.

You have represented that there will be no limitations or restrictions in the selection procedures based upon race, religion, national or ethnic origin, or other illegally discriminatory criteria. Individuals who are employed by you, or by organization controlled by one of your directors, a member of your board of directors, or related by blood or marriage to your employees or directors or organizations controlled by one of your directors are not eligible for grants. In addition, the persons who select grant recipients will not be in a position to derive a private benefit, directly or indirectly, if certain potential grantees are selected over others. Grant recipients will agree to use the funds only for the purpose of the grant and return any funds not so expended and to submit periodic reports to you. Scholarship and fellowship grant recipients will also be required to provide reports. If funds are misused, you will take all reasonable and appropriate steps to recover the funds.

You have also represented that you will maintain the records required by Rev. Rul. 56-304, 1956-2 C.B. 306, regarding, distribution of charitable funds to individuals.

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 inure 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--

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(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(b)(1) of the Foundation and Similar Excise Tax 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 53.4945-4(d)(3) of the 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.

We have considered your grant-making procedures under section 4945(g) of the Code. Based on the information submitted and assuming your scholarship and loan programs will be conducted as proposed, with a view to providing objectivity and nondiscrimination in awarding grants and educational loans, we have determined that your procedures in awarding scholarship grants and educational loans comply with the requirements of section 4945(g)(1) and (g)(3), and that scholarships and loans granted according to these procedures will not be "taxable expenditures" within the meaning of section 4945(d)(3). We have not considered whether grants made under your procedures are excludable from the gross income of recipients under section 117 of the Code.

In addition, we have determined that your program of making prizes or awards will not be a taxable expenditure within the meaning of section 4945(d)(3) of the Code. This conclusion is based upon your representation that this program will satisfy the restriction set forth in section 74(b) of the Code. We have not considered whether grants made under the procedures you have described qualify as prizes or awards within the meaning of section 74 of the Code.

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 or loans 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).

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 4945(g)(3). 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.

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Any grants or distributions made between the date you were established and recognized as exempt under section 501(c)(3) of the Code and 91 days after the end of your advance ruling period will not be considered taxable expenditures presuming that such grants met the general requirements of section 501(c)(3).

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. Because this letter could help resolve any question about your exempt status, you should keep it in your permanent records.

If you have any questions 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 the Ohio TE/GE Customer Service Office.

Sincerely Yours,

/S/

Terrell M. Berkovsky
Manager, Exempt Organizations
Technical Group 2