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Section 6110 Index

Written Determinations Requested After November 1, 1976

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Each ruling, technical advice memorandum, or Chief Counsel advice contained in this publication is directed only to the taxpayer who requested it or with respect to whom it is issued. Section 6110(k)(3) of the Internal Revenue Code provides that letter rulings, technical advice memorandums, and Chief counsel advice may not be used or cited as precedent.

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Department of the Treasury
Internal Revenue Service

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• Termination of Election 1362.02-00
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• *Ceases to be Small Business Corporation* *1362.02-02*
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• *Passive Investment Income* *1362.02-03*
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	• Inadvertent Terminations 200201027 200201027 200203057 200204027 200205004 200205024 200206011 200207017 200209019 200212010 200212011 200215043 200216008 200217010 200217011 200218007 200221014 200222016 200223003 200226006 200226027 200227004 200227026 200227027 200227031 200227033 200227034 200227035 200229024 200229024 200229024 200229024 200229024 200233019 200233020 200234022 200234022 200234022 200234022 200235015 200235015 200235016 200235016 200236013 200236013 200237009 200237011 200237012 200237014 200237023 200238021 200238021 200238021 200238023 200238023 200238023 200240040 200240040 200240040 200240040 200240044 200240044 200240044 200240044 200242013 200242024 200245008 200245019 200245020 200246009 200246009 200246009 200246017 200246017 200246017 200246026 200246026 200246026 200247005 200247027 200248017 200248018 200248019 200308003 200250009 200250016 200251005 200251005 200251005 200252033 200252033 200252038 200252038 200252039 200252039 200252040 200252040 200252041 200252041 200252042 200252042 200252043 200252043 200252044 200252044 200252045 200252045 200252046 200252046 200252047 200252047 200252048 200252048 200252049 200252049 200252050 200252050 200252051 200252051 200252052 200252052 200252053 200252053 200252054 200252054 200252078 200252078 200301038 200303033 200303033 200303054 200303054 200305020 200305021 200306029 200306029 200307070 200307070 200307079 200307079 200308003 200309018 200309019 200309022 200311005 200311008 200311010 200311019 200315020 200316004 200316012 200318018 200318035 200320001 200320001 200320025 200320025 200323042	1362.04-00
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	• Post-termination Transition Period 200207015 200223052 200230030 200230030	1377.02-00
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	• Self-Employment Income 200321018	1402.02-00
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	• *Stock of Members* 200232028	*1502.13-01*
	• Loss Disallowance Rule 200206050 200209051	1502.20-00
	• Consolidated Net Operating Loss Deduction 200209002 200214023 200305019 200306025 200306025 200307075 200307075 200312018 200312018 200312018 200312018 200312018 200312018	1502.21-00
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	• Filing Requirements 200203059 200220018 200238026 200238026 200238026 200303055 200303055 200312013 200312013 200312013 200312013 200312013 200312013	1502.75-00
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	• Taxable Year of Members of Group 200227001 200303056 200303056 200312015 200312015 200312015 200312015 200312015 200312015	1502.76-00
	• Common Parent Agent for Subsidiaries 200203007 200210012 200235011 200235011	1502.77-00
	• Alternative Agents of the Group 200235011 200235011 200307077 200307077	*1502.77-01*
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	• Life Estate 200213014	2033.09-00
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	• Gift v. Not a Gift 200203045 200210029 200229013 200229013 200229013 200229013 200229013 200306010 200306010 200310021 200310021 200310021	2501.01-00	

	• Certain Residents of Possessions Considered Nonresidents Not Citizens of U.S. 200303015 200303015	2501.06-00
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	• Retention of Powers	2511.07-00
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200313018 200316039 200320012 200320012 200323032

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	• Reg. 301.7701-3 Classification of Certain Business Entities 200202003 200202004 200202005 200202006 200202007 200202008 200202009 200202010 200202011 200202012 200202013 200202014 200202015 200202016 200202017 200202018 200202019 200202020 200204019 200204024 200204025 200205005 200206018 200206019 200206040 200207019 200209040 200209041 200209048 200211025 200213005 200215012 200215022 200215023 200215024 200217020 200218018 200220008 200220009 200221022 200221038 200221047 200222010 200224010 200224013 200225012 200226040 200230023 200230023 200230032 200230032 200231002 200231002 200233010 200233012 200236015 200236015 200236018 200236018 200237019 200239024 200239024 200239024 200247005 200247010 200247015 200247016 200247036 200302019 200302026 200304018 200304019 200308005 200308006 200308007 200308008 200308009 200308010 200308011 200308012 200308013 200308014 200308015 200308016 200308017 200308018 200308019 200308020 200308021 200308022 200308023 200308024 200308025 200308026 200308027 200308028 200308029 200308040 200321004 200251006 200251006 200251006 200252034 200252034 200252035 200252035 200252068 200252068 200252081 200252081 200301002 200301003 200301005 200301006 200301007 200302019 200302026 200303043 200303043 200306007 200306007 200307005 200307005 200307007 200307007 200307064 200307064 200307065 200307065 200307066 200307066 200307067 200307067 200307068 200307068 200308005 200308006 200308007 200308008 200308009 200308010 200308011 200308012 200308013 200308014 200308015 200308016 200308017 200308018 200308019 200308020 200308021 200308022 200308023 200308024 200308025 200308026 200308027 200308028 200308029 200308040 200310010 200310010 200310010 200312020 200312020 200312020 200312020 200312020 200312020 200312020 200312021 200312021 200312021 200312021 200312021 200312021 200314020 200316024 200316025 200316029 200318036 200320014 200320014 200323018	9100.31-00
Section 9111	**Miscellaneous Legal Proceedings**	**9111.00-00**
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	• Collateral Estoppel 200221002	9111.19-00
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DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

MAR 20 2003

Date:
UIL: 4945.00-00
4946.00-00

Contact Person:

Identification Number:

Telephone Number:

T:EO:B3

Employer Identification Number:

LEGEND:

X =

s =

t =

u =

v =

w =

x =

y =

Dear Sir or Madam:

This is in response to a ruling request dated September 18, 2002, submitted on your behalf by your authorized representatives. You are requesting a ruling on whether the payment of certain expenses in connection with a conference to be hosted by you for the purpose of evaluating and developing your charitable programs will be taxable expenditures under section 4945 of the Internal Revenue Code. In support of this request, you have made the following factual representations.

FACTS:

X is an organization that has been recognized as exempt from federal income tax under section 501(a) of the Code as an organization described in 501(c)(3), and as a private foundation under section 509(a).

X's purpose is to encourage the study, teaching and research into the science and art of self-government, to the end that the American people may understand the fundamental principals of democracy and be guided thereby in shaping governmental policies. To accomplish this purpose, the Foundation supports programs and activities that will result in an increased understanding by the public of the benefits of individual freedom and civic and individual responsibility, and the corresponding threat to liberty posed by a lack of informed, active participation by citizens at all levels of government -local, city, state and national.

X has fulfilled its charitable purposes in part through the granting of graduate and undergraduate scholarships, primarily in the areas of law, history and political science. X has created scholarship endowments at several colleges and universities through which more than 600 individuals have received scholarships from the endowed scholarships created by X. The endowed scholarship recipients (the "Scholars") are selected through a formal interview process with X's trustees in which applicants are reviewed on the basis of their character, goals, motivation and their views of a citizen's responsibility to actively participate in governmental and civic life. While attending school, Scholars not only receive funds for the payment of tuition, books and room and board, but are also afforded the opportunity to attend conferences emphasizing civic responsibility. After graduation, former Scholars typically maintain a personal, continuing relationship with X and its trustees. Currently, three of X's seven elected trustees are former X Scholars. In addition to its endowed scholarships, X makes grants to institutions which select the scholarship recipients and make the scholarship awards. These scholarship procedures have been approved by the Internal Revenue Service.

X proposes to plan, organize and hold a Scholars Conference (the "Conference") as a means of advancing its charitable purposes. X will invite its former Scholars to attend the Conference in order to reacquaint the former Scholars with X's views of civic responsibility and charitable responsibility to the community, obtain input from the former Scholars on how X can better carry out its charitable purposes, and strengthen the bonds between X and these individuals. X believes the involvement of the former Scholars is vital to the advancement of X's charitable purposes because the former Scholars will: (i) assist X in identifying potential grantees whose activities are consistent with X's charitable purposes; (ii) assist X and universities at which X has endowed scholarships in recruiting young men and women with a strong sense of civic duty to apply to become X Scholars; (iii) carry out the charitable purposes of X through their personal involvement in civic and governmental activities in their own communities; and (iv) serve as future trustees of X.

X's officers and trustees will make presentations at the Conference in which they will explain X's purposes and mission and call on the former Scholars to become involved in furthering X's charitable purposes. The Conference will showcase several nonpartisan, civic-oriented programs by having representatives of charitable organizations that conduct these programs make presentations that describe civic and government programs in which the former Scholars can either become involved or replicate in their own communities. Additionally, X will seek the former Scholars' input in improving X's charitable programs by having the former Scholars complete a written evaluation on X's scholarship program and conducting discussion sessions in which the former Scholars will give X 's officers and trustees feedback on the effectiveness of X's scholarship program. Through these discussion groups, the former Scholars will also have the opportunity to learn more about how they can carry out X's charitable purposes through the conduct of X's programs in their own communities. In addition, the former Scholars will meet with representatives of universities at which X endows scholarships to discuss ways in which the universities can improve X's endowed scholarship programs and the former Scholars can assist in recruiting qualified students to apply for X's scholarship programs at the former Scholars' respective alma maters.

The Conference will be held in the city in which X has its principal office. X will offer to pay for the transportation expenses of former Scholars who live more than 300 miles from the Conference location to enable these individuals to participate in the Conference, as they might not otherwise be able to afford to attend the Conference. It is anticipated that former Scholars who live within 300 miles of the Conference location would be able to drive to the Conference, while those who live more than 300 miles from the Conference location would be required to fly to the Conference. Many former Scholars have recently graduated and would not have the financial resources to pay for air transportation to the Conference. X desires to encourage as many former Scholars to participate in the Conference as possible by providing for these individuals' transportation expenses so that Conference participation is not cost-prohibitive. In another effort to encourage participation, X will hold the Conference over a weekend so the Conference will not interfere with the work schedules of former Scholars.

In addition, X will provide lodging and meals for all of the former Scholars who participate in the Conference as well as for the Conference presenters. X will also incur other costs related to the Conference, such as rental of meeting facilities and audio/visual equipment, fees and transportation expenses for Conference presenters, professional fees for planning consultants, and the production, design, printing and mailing of Conference materials.

Further, X will reimburse members of its Board of Trustees for their transportation costs to attend the Conference. Certain officers and trustees will make presentations and serve as moderators for the Conference. Although not all of X's trustees will make presentations at the Conference, X views the attendance of its entire Board of Trustees as critical to emphasizing X's purposes and mission to the former Scholars and allowing former Scholars to have informal

discussions with X's current governing board. Since all of the trustees will be gathered for the Conference, X will hold a regular meeting of its Board of Trustees immediately before the Conference. X's current policy is to reimburse the lodging and transportation expenses of its trustees who do not live in the local area for such trustees' attendance at X Board meetings. In addition, X pays annual compensation of $s to the Chairman of its Board of Trustees and $t to each of its other trustees for such trustee's personal services to X in carrying out his or her responsibilities as a member of X's governing body. None of X's trustees are "government officials" within the meaning of section 4946(c) of the Code.

The total cost of the Conference to X will be approximately $u and will depend on the number of former Scholars who actually participate in the Conference. None of the Conference costs are extravagant. As of the end of 2001, X had assets with a fair market value of approximately $v . X made approximately $w in qualifying distributions in 2001 (including $x in grants and approximately $y in administrative expenses allocable to charitable purposes).

This is the first conference of this kind conducted by X. X has never held a follow-up conference with its former Scholars to evaluate the effectiveness of X's scholarship program. Based on the success of the Conference, X may hold similar conferences in the future in order to further develop X's scholarship and other charitable programs. To that end, participants in future conferences may also include former non-endowed scholarship recipients and secondary and elementary school teachers who can implement the purposes of X in their classrooms by teaching the importance of civic responsibility and community involvement to their students.

LAW:

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)(l)(D) of the Code defines self-dealing to include "any direct or indirect payment of compensation (or payment or reimbursement of expenses) by a private foundation to a disqualified person."

Section 4941(d)(2)(E) of the Code provides that, "except in the case of a government official (as defined in section 4946(c)), the payment of compensation (and the payment or reimbursement of expenses) by a private foundation to a disqualified person for personal services which are reasonable and necessary to carrying out the exempt purpose of the private foundation shall not be an act of self-dealing if the compensation (or payment or reimbursement) is not excessive."

Section 53.4941(d)-3(c)(1) of the Foundation and Similar Excise Taxes Regulations provides that "personal services" include the services of a broker serving as agent for the private foundation, but not the services of a dealer who buys from the private foundation as principal and resells to third parties. This paragraph applies without regard to whether the person who receives the compensation (or payment or reimbursement) is an individual. The

portion of any payment which represents payment for property shall not be treated as payment of compensation (or payment or reimbursement of expenses) for the performance of personal services for purposes of this paragraph.

Section 4942(g)(l)(A) of the Code generally provides that a "qualifying distribution" is "any amount paid to accomplish one or more purposes specified in section 170(c)(2)(B)."

The purposes specified in Section 170(c)(2)(B) of the Code include religious, charitable, scientific, literary and educational purposes.

Section 53.4942(a)-3(a)(2) of the regulations provides that a private foundation's qualifying distributions include amounts spent directly on the foundation's charitable programs and administrative expenses of the foundation in conducting its charitable programs.

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

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

Section 4945(d)(5) of the Code provides that a taxable expenditure includes "any amount paid or incurred by a private foundation for any purpose other than one specified in section 170(c)(2)(B)."

Section 53.4945-4(a)(2) of the regulations provides that the term "grant" does not include "payments (including salaries, consultants' fees and reimbursements for travel expenses such as transportation, board, and lodging) to persons. ..for personal services in assisting a foundation in planning, evaluating or developing projects or areas of program activity by consulting, advising, or participating in conferences organized by the foundation."

Section 53.4945-6(b)(l)(v) of the regulations provides that a payment made by a private foundation which constitutes a qualifying distribution under section 4942(g) will not be treated as a taxable expenditure.

Section 4946(a)(1)(B) of the Code provides that the term "disqualified person" with respect to a private foundation includes a foundation manager.

Section 4946(b)(1) of the Code defines the term "foundation manager" to include "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)."

ANALYSIS

X will organize and conduct its Scholars Conference as a means of advancing its charitable purposes of encouraging the study, teaching and research into the science and art of self-government, and granting of graduate and undergraduate scholarships. The purpose for X's former Scholars' participation in the Conference is to assist X in evaluating the effectiveness of its scholarship program and further develop X 's charitable programs by equipping the former Scholars with the skills and information needed for the former Scholars to carry out X's charitable purposes in the former Scholars' own communities. Accordingly, the former Scholars' participation in the Conference directly advances the charitable purposes of X, and therefore constitutes personal services to X. Since the expenditures made by X for the former Scholars' lodging, meals and transportation are for X's direct benefit, they do not constitute "grants" within the meaning of section 53.4945-4(a)(2) of the regulations, and are not taxable expenditures under section 4945(d)(3) of the Code.

Section 4941(d)(1)(D) of the Code generally provides that the payment of compensation or the payment or reimbursement of expenses by a private foundation to a disqualified person constitutes an act of self-dealing. However, pursuant to section 4941 (d)(2)(E), if such compensation or payment or reimbursement of expenses is for the performance of personal services which are reasonable and necessary in carrying out the exempt purposes of the foundation, then it will not result in an act of self-dealing as long as the compensation or expense is not excessive.

As members of X's governing body, X's trustees are disqualified persons with respect to X because they are foundation managers. X will pay for the lodging, meals, and transportation costs for all of its trustees to attend the Conference and the X Board meeting held immediately before the Conference. At the Conference, the trustees will make presentations, serve as moderators of discussion groups, and be available to answer questions of the former Scholars regarding X's charitable programs. Accordingly, the trustees' attendance at the Conference constitutes personal services rendered to X which are reasonable and necessary to carry out X's exempt purposes. As a result, assuming the Conference expenses attributable to the trustees' attendance are reasonable and are not excessive when added to the trustees' annual compensation, the payment of these Conference expenses will not constitute an act of self-dealing under section 4941(d)(2)(E) of the Code.

Further, since the Conference directly advances X's purposes and mission, which are the basis of X's exemption from income tax as a charitable organization described in section

501(c)(3) of the Code, the described expenditures, assuming that they are reasonable, incurred by X to hold the Conference will be for the purpose of accomplishing X's charitable and educational purposes within the meaning of Section 170(c)(2)(B). Accordingly, such Conference expenditures constitute qualifying distributions under section 4942(g) of the Code and thus, are not taxable expenditures under section 4945(d)(5).

RULINGS:

Based on the information submitted and the representations made therein, we rule as follows:

1. X's provision of meals and lodging to, and the reimbursement of transportation expenses of, former Scholars participating in the Conference do not constitute "grants to individuals," and therefore, are not taxable expenditures within the meaning of section 4945(d)(3) of the Code.

2. X's provision of meals and lodging to, and reimbursement of transportation expenses of, X's trustees attending the Conference and the Board of Trustees meeting held immediately before the Conference are for the trustee's personal services which are reasonable and necessary to carry out X's exempt purposes, and thus, assuming the costs of the meals, lodging and transportation in addition to the trustee's annual compensation is not excessive, the payment by X of the conference expenses attributable to the trustees' attendance at the conference will not result in an act of self-dealing under section 4941 of the Code.

3. X's Conference expenditures, including the provision of meals and lodging to, and the reimbursement of transportation expenses of, former Scholars and X trustees attending the Conference will constitute qualifying distributions within the meaning of section 4942(g) of the Code, and thus, will not be taxable expenditures under section 4945(d)(5) of the Code.

These rulings are based on the understanding that there will be no material changes in the facts upon which they are based and are directed only to the organization that requested them.

Section 6110(k)(3) of the Code provides that they may not be used or cited by others as precedent.

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.

Sincerely,

Robert C. Harper, Jr.

Robert C. Harper, Jr.
Manager, Exempt Organizations
Technical Group 3