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

200038053

UIL: 4945.04-05

Date: JUN 27 1999

Contact Person:

ID Number:

Telephone Number:

OP:E:EO:T3

Employer Identification Number:

Dear Sir or Madam:

This is in response to a ruling request originally dated December 1, 1999, submitted on your behalf by your authorized representative. You requested rulings "that grants that you may award to qualified individuals for travel, study or other similar purposes and to certain organizations (the "Initial Grantees") for re-granting to qualified individuals for travel, study or other similar purposes, do not constitute "taxable expenditures" as that term is defined in section 4945 of the Internal revenue Code of 1986, as amended (the "Code")." You also requested rulings that :

(1)The proposed grant program:

(a) is consistent with continuation of [your] exempt status as an organization described in section 501(c)(3), contributions to which are deductible under section 170 of the Code;

(b) employs objective and nondiscriminatory criteria for the determination of individual grant recipients and therefore, qualifies under Code section 4945(g);

(c) complies with all other requirements of section 53.4945-4 of the regulations.

(2) A re-grant by an initial grantee to an individual under the proposed grant program will not violate the terms of [your] expenditure responsibility grant agreement with the Initial Grantee, which is required by section 53.4945-5(b)(3)(iv)(c) of the regulations.

A February Ruling issued by our Cincinnati office, which approved your individual grant-making procedures, mentioned the re-granting process in the body of the letter but did not specifically rule on the re-granting procedures. In response to your request to expand the ruling to specifically address the re-granting procedures (Ruling (2) above), you were advised that the issuing office did not have the authority to rule on the expenditure responsibility portion of the request and that the February Ruling should not have mentioned the re-granting procedures at all. Thus a March Ruling was issued which superseded the February Ruling and in which all reference to your re-granting procedures was eliminated. You were subsequently advised to submit a copy of the original ruling request to the National Office in order to obtain the ruling (Ruling (2)) not addressed in the February or March Ruling.

The ruling request represents that in addition to awarding grants to qualified individuals for travel, study or other similar purposes, an activity already approved by the Service in the March Ruling, you will additionally award grants to organizations as Initial Grantees and permit such Initial Grantees to make re-grants to qualifying individuals for travel, study or other similar purposes. The Initial Grantees may include

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one or more organizations that are not public charities described in section 509(a)(1), (2) or (3) or exempt operating foundations described in section 4940(d)(2) of the Code, such as, but not limited to, (1) foreign organizations lacking a history of operations and support necessary to enable you to make a good-faith determination under section 53.4945-5(a)(5) of the regulations that the organization is described in such sections of the Code, and (ii) foreign organizations that have sufficient history of operations and support to make a good-faith determination that the organization is the equivalent of a private foundation under section 509(a) of the Code.

As part of the grant agreement between you and each Initial grantee, the Initial Grantee must commit in writing to: (i) comply with your standards and procedures for making grants to individuals as previously described and approved in the March Letter; (ii) comply with the requirements of section 4945(d)(3) and (g) as if it were a private foundation; and (iii) provide reports to you in conformity with section 53.4945-5(c).

Rev. Rul. 71-460, 1971-2 C.B. 231, provides that a domestic corporation that conducts a part or all of its charitable activities in a foreign country is not precluded from exemption under section 501(c)(3) of the Code.

Section 4945 of the Code imposes a tax on certain "taxable expenditures" of private foundations. Section 4945(d)(4) of the Code provides that any amount paid by a private foundation to any organization (other than a public charity) will be deemed a taxable expenditure unless the foundation exercises expenditure responsibility.

Section 53.4945-4(d)(1) of the Foundation and Similar Excise Taxes Regulations provides that a request for advance approval of a foundation's grant procedures must fully describe the foundation's procedures for awarding grants and for ascertaining that such grants are used for the proper purposes. The approval procedure does not contemplate specific approval of particular grant programs but instead one-time approval of a system of standards, procedures, and follow-up designed to result in grants which meet the requirements of section 4945(g). Thus, such approval shall apply to a subsequent grant program as long as the procedures under which it is conducted do not differ materially from those described in the request to the Commissioner.

Section 53.4945-5 (a)(1) of the regulations provides In general that under section 4945(d)(4) the term "taxable expenditure" includes any amount paid or incurred by a private foundation as a grant to an organization (other than an organization described in section 509(a)(1), (2) or (3)), unless the private foundation exercises expenditure responsibility with respect to such grant in accordance with section 4945(h). However, the granting foundation does not have to exercise expenditure responsibility with respect to amounts granted to organizations described in section 4945(f).

Section 53.4945-5(b)(1) of the regulations provides that a private foundation will be considered to be exercising expenditure responsibility under section 4945(h) as long as it exerts all reasonable efforts and establishes adequate procedures

(i) To see that the grant is spent solely for the purpose for which made,

(ii) To obtain full and complete reports from the grantee on how the funds are spent, and

(iii) To make full and detailed reports with respect to such expenditures to the Commissioner.

Section 53.4945-5(c)(1) of the regulations generally provides that in the case of grants described in section 4945(d)(4), except as provided in subparagraph (2) of this paragraph, the granting private foundation shall require reports on the use of the funds, compliance with the terms of the grant, and the progress made by the grantee toward achieving the purposes for which the grant was made.

Your re-grant procedures will not differ materially from the individual grant procedures described to, and approved by the Service in the March Ruling. You further represent that you will exercise expenditure responsibility with respect to grants awarded to Initial Grantees pursuant to section 4945(d)(4)(b) of the Code. In addition, you will require that the Initial Grantees follow objective and non-discriminatory procedures for making re-grants to individuals, and that they follow the procedures previously approved by the Service in the March Ruling.

While you are not considered an insurer of the activities of an Initial Grantee, you will not violate the expenditure requirements of section 4945(d)(1) when pursuant to your written agreement, the Initial Grantee provides you with reports indicating that grant funds are being properly spent and otherwise indicating compliance with the reporting requirements of section 53.4945-5(c)(1) of the regulations.

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

Your "re-granting" procedures meet the expenditure requirements of section 4945(h) of the Code.

This ruling supplements the March Ruling issued by our Cincinnati office.

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,

(signed) Robert C Harper, Jr.

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