Bond Case Briefs

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IRS: Foundation's Expenditures for Mentorship Program Aren't Taxable.

The IRS ruled that expenditures made through a private foundation’s mentorship program for disadvantaged youth will not be taxable.

Dear * * *:

You asked for advance approval of your educational grant procedures under Internal Revenue Code section 4945(g)(3). This approval is required because you are a private foundation that is exempt from federal income tax.

OUR DETERMINATION

We approved your procedures for awarding educational grants. Based on the information you submitted, and assuming you will conduct your program as proposed, we determined that your procedures for awarding educational grants meet the requirements of Code section 4945(g)(3). As a result, expenditures you make under these procedures won’t be taxable.

DESCRIPTION OF YOUR REQUEST

Your letter indicates that you will operate a mentorship program.

The program will provide greater opportunities for disadvantaged youth around the world to realize their full potential and attain mentorships by introducing young adults to leading entrepreneurs, artists, and academics, by sponsoring visa applications, and by covering expenses related to the pursuit of their goals whether in the fields of science, arts, sports, academia, or otherwise.

You intend to both publicize your program on your website, and through foreign and international websites that have the potential of drawing a wide audience from around the world.

You will have application forms completed by both a nominating organization and the potential protégé. In the future you intend to allow applicants to self-nominate.

You aim to support young adults, ages 18 to 30, who have faced, or are facing, significant adversity in life. You do not define what specifically constitutes adversity. It is up to the applicants to demonstrate how their ability to develop in their chosen fields has been stifled by individual circumstances. You will consider individuals who have not had the economic means to pursue their goals, as well as individuals living under oppressive regimes, or in repressive communities. These are just a few examples of the kind of adversity that might qualify a candidate for the mentorship program.

Specific criteria for selection will be based on the following factors:

Age: Applicants should be between the ages of 18 and 30.

Talent: Applicants must demonstrate talent, potential, and perseverance in their chosen fields.

Need: Applicants must demonstrate that they have faced significant adversity, as defined by each applicant's individual circumstances.

Professional Development Potential: Applicants should demonstrate that the foundation can significantly impact his or her ability to realize his or her full potential.

Leadership Potential: Applicants must demonstrate a genuine desire to give back to their communities in a meaningful and realistic way. Specifically, in accordance with W, protégés must work to bring about positive change in one of the following categories: alleviation of poverty and hunger, improvement of education for all, elimination of discrimination, environmental sustainability, improvement of global health, improvement of global economy, or attainment of world peace.

Substantial contributors, foundation managers, officers, directors, and employees of the foundation, as well as their family members, are ineligible to participate in the mentorship program.

You currently plan to run between two and six mentorships each year. You hope to scale up to ten to twelve mentorships in the future depending on the availability of funding, the particular needs of each recipient, and the overall success of your programs.

You envision providing support to protégés of up to $z per recipient over the course of a year or, some cases, more than a year. The support will be used to cover the expenses of travel, conference participation, art exhibits, supplies, courses, and other expenses related to each protégés particular field of interest, as well as in some cases a cash stipend.

You have adopted the following mandatory procedure in order to ensure continuing compliance with the post-9/11 Executive Orders and with Office of Foreign Assets Control, OFAC, requirements:

You will operate in compliance with all statutes, Executive Orders, and regulations restricting or prohibiting U.S. persons from engaging in transactions and dealings with countries, entities, or individuals subject to economic sanctions administered by OFAC.

You will check the OFAC List of Specially Designated Nationals, SDN, and Blocked Persons before dealing with persons including individuals, organizations and entities and specifically avoid dealing with any persons on the list.

You will not enter into a relationship with a grantee where doubts exist about the grantees' ability to ensure safe delivery of charitable resources independent of influence by or association with any terrorist organization.

You will not engage in trade or transaction activities that violate the regulation behind OFAC's country-based sanctions programs or engage in trade or transaction activities with sanctions targets named on OFAC's SDN list.

You will acquire from OFAC the appropriate license and registration where necessary.

The selection committee varies per protégé. The President and Executive Director, together field applications to select the most promising candidates. The candidates will then be presented to an individualized selection committee made up of experts and luminaries in the applicant's field, in order to assess the relevance of the stated goals and the potential of the applicant. Once a protégé has been selected, the Board of Directors of the foundation will approve the chosen recipients.

The following are criteria you use for grant renewal.

Recipients must:

Participate actively in their fields, including maintaining frequent contact with you and with their mentors, and participate in conferences, exhibits, or roundtables, as pertinent.

Provide receipts and other documentation showing the use of all grant monies awarded.

Spend the majority of their time in the communities from which they came, and seek to improve the conditions of their particular communities beyond the length of the program. The goal of each protégé should be to one day mentor other youths in his or her chosen field and to bring about positive change in his or her own community.

You will maintain records of your mentorship participants, including the names and addresses of its protégés and mentors, as well as accounts of their activities and any expenses paid to facilitate the mentorship. Records will also include information obtained to evaluate protégés, confirmation that the protégé is not a disqualified person to the foundation, the amount and purpose of any assets spent, how the mentorship was supervised and how any possible diversion of funds was investigated and addressed.

You closely monitor and evaluate the expenditure of funds and the progress made by each recipient. A representative from the foundation will attend conferences and exhibitions at which protégés are participating, and will also continue to maintain frequent contact with all of the participants of the program, including the mentors. Much of the support is provided in the form of in-kind support (such as hotel rooms), or in the reimbursement of specific expenses documented by the protégé. While mentors provide guidance, support, and networking opportunities, the foundation acts as a kind of sub-mentor by monitoring the protégés' progress, finding adequate housing and other necessary facilities, recording all expenses, and sponsoring foreign individuals for visa or other purposes. To the extent the support is distributed in the form of a stipend/grant to a protégé, the protégé will be required to sign a letter or agreement committing to how the funds will be used, and agreeing to oversight by the foundation and to fulfilling any reporting requirements. Upon completion of each mentorship, the foundation and the protégé will work together to produce a summary report describing the goals achieved, the work produced, and the protégé's use of resources. If the mentorship goes beyond one year in duration, the foundation will require annual interim reports.

Any possible diversion of grant funds will be promptly investigated. If the foundation discovers that funds have been misused, it will take all reasonable and appropriate steps to recover diverted funds, and will make no further distributions to that recipient, unless it is able to obtain assurances that future diversion will not occur and protégé will take extraordinary precautions to prevent future diversion from occurring.

BASIS FOR OUR DETERMINATION

The law imposes certain excise taxes on the taxable expenditures of private foundations (Code section 4945). A taxable expenditure is any amount a private foundation pays as a grant to an individual for travel, study, or other similar purposes.

However, a grant that meets all of the following requirements of Code section 4945(g) is not a taxable expenditure.

The foundation awards the grant on an objective and nondiscriminatory basis.

The IRS approves in advance the procedure for awarding the grant.

The grant is:

A scholarship or fellowship subject to section 117(a) and is to be used for study at an educational organization described in section 170(b)(1)(A)(ii); or

A prize or award subject to the provisions of section 74(b), if the recipient of the prize or award is selected from the general public; or

To achieve a specific objective; produce a report or similar product; or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar skill or talent of the recipient.

To receive approval of its grant procedures, Treasury Regulations section 53.4945-4(c)(1) requires that a private foundation demonstrate that:

The grant procedure includes an objective and nondiscriminatory selection process.

The grant procedure results in the recipients performing the activities the grants were intended to finance.

The foundation plans to obtain reports to determine whether the recipients have performed the activities that the grants were intended to finance.

OTHER CONDITIONS THAT APPLY TO THIS DETERMINATION

This determination covers only the grant program described above. This approval will apply to succeeding grant programs only if their standards and procedures don’t differ significantly from those described in your original request.

This determination applies only to you. It may not be cited as precedent.

You cannot rely on the conclusions in this letter if the facts you provided have changed substantially.

You must report any significant changes in your program to the Cincinnati Office of Exempt Organizations at:

Internal Revenue Service

Exempt Organizations Determinations

P.O. Box 2508

Cincinnati, OH 45201

You cannot make grants to your creators, officers, directors, trustees, foundation managers, or members of selection committees or their relatives.

All funds distributed to individuals must be made on a charitable basis and must further the purposes of your organization. You cannot award grants for a purpose that is inconsistent with Code section 170(c)(2)(B).

You should keep adequate records and case histories so that you can substantiate your grant distributions with the IRS if necessary.

We've sent a copy of this letter to your representative as indicated in your power of attorney.

Please keep a copy of this letter in your records.

If you have any questions, please contact the person listed at the top of this letter.

Sincerely,

Holly O. Paz

Director, Exempt Organizations

Rulings and Agreements

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