Rev. Rul. 75-511, 1975-2 C.B. 450

Private foundation's set-asides for grantees; qualifying distributions. A private foundation, whose primary activity is the making of renewable scholarships and fixed sum research grants that normally run for three years, for which payments have been made annually from current income, may not treat set-aside amounts representing the maximum for each grantee from which the annual payments will be made as qualifying distributions under section 4942(g)(2) of the Code.

Advice has been requested whether, under the circumstances described below, amounts proposed to be set aside by a private foundation for certain specific projects will be approved by the Service under the provisions of section 4942(g)(2) of the Internal Revenue Code of 1954 and the regulations thereunder.

The foundation's primary activity is the making of scholarship and research grants to individuals for charitable purposes. In most cases, the foundation's research grants are fixedsum grants that cover a period of three years and that are paid to the grantees in annual installments. its scholarship grants are normally made on an annual basis to cover the grantee's college education and, if the student maintains a certain minimum academic average, the grants are renewable annually over a three year period. In most instances where the foundation has obligated itself to make grants to individuals for a certain number of years, the foundation has been able to fund the annual installment grant payments and the annual renewal grant payments out of its current income. In the few cases where the foundation has not been able to meet its obligations out of current income, it has made the grant payments out of corpus.

Instead of continuing to make its annual installment and renewal grant payments out of current income, the foundation proposes to set aside, for each grantee, an amount which represents the total amount of funds the foundation will need to make the installment or renewal grant payment for the duration of the recipient's grant period. Under this proposal, the foundation would make each annual installment or renewal grant payment out of the grantee's set-aside account until the applicable grant period has ended and the funds set aside for his use are depleted.

With a view toward going ahead on this basis, the foundation has timely sought approval by the Commissioner of Internal Revenue that such set-asides be treated as qualifying distributions under the provisions of section 4942(g)(2) of the Code.

Section 4942(g)(2) of the Code provides that an amount set aside for a specific project which comes within one or more of the purposes described in section 170(c)(2)(B) may be treated as a qualifying distribution, but only if, at the time of the set-aside, the private foundation establishes to the satisfaction of the Secretary or his delegate that the amount will be paid for the specific project within five years, and the project is one which can be better accomplished by such set-aside than by immediate payment of funds.

Under section 53.4942(a)-3(b) of the Foundation Excise Tax Regulations, specific projects of the kind that might qualify for a set-aside are those be better accomplished by such set-aside or expenditures that must be made in order to assure the continuity of particular charitable projects; for example, a plan to fund a specific research program which is of such magnitude as to require an accumulation prior to commencement of the research.

In the instant case, the foundation's grant-making program is regularly carried on as part of its normal ongoing charitable activities. In most instances, the foundation has been able to pay the annual installment and renewal grant payments out of current income, and it has shown no compelling reasons why it cannot continue to fund its grant-making program in this manner. Under these circumstances, the foundation has not shown that its grant-making program can be better accomplished by the use of set-asides than by immediate payment of funds.

Accordingly, amounts proposed to be set aside by the foundation for the specific projects described above will not be approved by the Service as qualifying distributions under the provisions of section 4942(g)(2) of the Code.