SIN: 4945.00-00

200349007

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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: SEP 10 2003

Contact Person:

Identification Number:

Telephone Number:

T:EO:BR 4

Employer Identification Number:

Legend:
B=
C=
D=
E=

Dear Sir or Madam:

This is in reference to a letter dated June 2, 2003, requesting advance approval of your grant-making procedures under section 4945(g) of the Internal Revenue Code.

You are exempt under section 501(c)(3) of the Code and have been classified as a private foundation under section 509(a).

B was formed, in accordance with a Trust agreement, in memory of C's late husband, D, a very well known science fiction writer who wrote many novels about outer space. A primary purpose of B is to provide a periodic (but not annual) award to be known as E to an individual or individuals for practical accomplishments in the field of commercial space activities. During his lifetime, D wrote about what he conceived outer space would be like in the future. You state that by providing a prize to a scientist or other individual for such space activities, the award would contribute to the realization of what was only science fiction in D's novels.

Under the agreement which created B, the principal income of all property received and accepted by the Trustees to be administered by B will be "held in trust by the Trustees and the Trustees may make payments or distributions from income or principal, or both, to or for the use of an individual or individuals, who, in the opinion of the Trustees, is deserving of a monetary

cash award in an amount to be determined from time to time by the Trustees, for such individual's or individuals' practical accomplishments in this field of commercial space activities."

The agreement further provides that the award recipient or recipients will be recommended to the Trustees by a three-person board appointed by the Trustees. Each board member will have an area of expertise in space literature, space commercialization or space technology. The board chairman will communicate the results of its recommendation of a recipient of the award, if any, to the Trustees once a year. The award will be granted in recognition of past outstanding achievement in commercial space activities, and is not intended to finance any future activities of the recipient. There will be no conditions imposed on the manner in which the recipient may expend the award.

Section 4945 of the Code provides for the imposition of taxes on each taxable expenditure of 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 other similar purposes by such individual, unless such grant satisfies the requirements of section 4945(g).

Section 53.4945-4(a)(3)(i) of the Foundation and Similar Excise Taxes Regulations provides that a grant to an individual for purposes other than those described in section 4945(d)(3) of the Code is not a taxable expenditure within the meaning of that section even if the requirements of section 4945(g) are not met.

Rev. Rul. 77-380, 1977-2 C.B. 419, holds that grants made by a private foundation primarily in recognition of past achievement, with the funds being unrestricted and not earmarked for subsequent travel or study are not taxable expenditures within the meaning of section 4945(d)(3) of the Code.

Information provided by you indicates that periodic grants to be awarded by you to individual recipients of E are for past achievement and are not intended to finance any future activity of the recipient. As in Rev. Rul. 77-380, there are no conditions or requirements to be met subsequent to receiving the awards. Thus, the awards are not grants to individuals for travel, study or similar purposes by such individuals. Accordingly, your awards for past achievement are made for purposes other than stated in section 4945(d)(3). Therefore, these grants are not subject to advance approval under section 4945(g). Moreover, these grants would not constitute taxable expenditures within the meaning of section 4945(d)(3) of the Code.

This ruling is conditioned on the understanding that there will be no material changes in the facts upon which it is based. It is further conditioned on the understanding that no grants will be awarded to your organization's creators, officers, directors, trustees, or members of the selection committee, or for a purpose inconsistent with the purposes described in section 170(c)(2)(B) of the Code.

We are informing the TE/GE office of this action. Please keep a copy of this ruling

with your organization's permanent records.

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.

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,

Debra J. Kawecki

Debra J. Kawecki
Manager, Exempt Organizations
Technical Group 4