

Private foundations; taxable expenditures; compensation to research assistants by an individual grantee. The payment of compensation to research assistants by an individual grantee of a private foundation, where the grantee controls the selection of these persons independently of the grantor private foundation and where the private foundation's grant-making procedures satisfy the requirements of section 4945(g) of the Code, does not constitute a grant within the meaning of section 4945(d)(3).

#### ISSUE

Is payment of compensation to research assistants by an individual grantee of a private foundation a grant to an individual by the private foundation within the meaning of section 4945(d)(3) of the Internal Revenue Code?

#### FACTS

The foundation is exempt from federal income tax under section 501(c)(3) of the Code and is a private foundation under section 509(a). It makes grants to qualified individuals to enable them to conduct scientific research projects. The grants to the individual grantees are made by the foundation on an objective and nondiscriminatory basis within the meaning of section 4945(g) under procedures approved in advance by the Commissioner.

The foundation's grant-making procedures include a consideration of the nature of the proposed research, the number of staff needed in the performance of the research, and the amount of support needed. In most cases, the candidates propose to use a substantial portion of the grant funds to compensate individuals (either employees or independent contractors) who assist in the research projects. The grantee controls the selection of these persons and selects them independently of the private foundation. The foundation requires the grantee to file annual reports detailing the use of the grant funds and the progress made by the grantee toward completing the research project.

#### LAW

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 purpose by such individual, unless such grant satisfies the grant requirements of section 4945(g).

Section 4945(g) of the Code provides that section 4945(d)(3) shall not apply to certain individual grants awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance by the Secretary or his delegate.

Section 4945(g)(3) of the Code provides that section 4945(d)(3) shall not apply to an individual grant the purpose of which is to achieve a specific objective, produce a report or other similar product, or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar capacity, skill, or talent of the grantee.

Section 53.4945-4(a)(2) of the Foundation Excise Tax Regulations provides that the term 'grants' shall include, but is not limited to such expenditures as scholarships, fellowships, internships, prizes, and awards. On the other hand, grants do not ordinarily include salaries or other compensation to employees.

#### ANALYSIS

Generally, grants made by a private foundation to individuals for the purpose of conducting scientific research constitute grants made to achieve a specific objective within the meaning of section 4945(g)(3) of the Code. Thus, such grants will not constitute taxable expenditures where the foundation's grant-making procedures satisfy the requirements of section 4945(g) and section 53.4945-4(c) of the regulations.

This private foundation's grant-making procedures have been approved in advance and are not taxable expenditures except for the issue of compensation paid to the individual grantee's research assistants.

Amounts paid by a foundation's grantees to his or her research assistants, who are selected independently of the foundation, do not constitute grants within the meaning of section 4945(d)(3) of the Code and section 53.4945-4(a)(2) of the regulations. Therefore, there is no requirement that the procedure for selecting the research assistants be approved under section 4945(g).

#### HOLDING

Compensation paid to a research assistant by an individual grantee of a private foundation, under the circumstances described above, is not a grant to an individual within the meaning of section 4945(d)(3) of the Code.

#### ADVANCE APPROVAL OF GRANT MAKING PROCEDURES

Even though a private foundation considers its grant making program to fall within the scope of this revenue ruling, it must request advance approval of its procedures in accordance with section 53.4945-4(d) of the regulations.