

Private foundations; amounts paid to students. Grants made on an objective and nondiscriminatory basis by a private foundation to worthy college students who acknowledge that they plan to teach in a particular State after graduation satisfy the requirements of section 4945(g) of the Code and are not taxable expenditures under section 4945(d)(3); however, they are grants to achieve specific objectives as described in section 4945(g)(3) rather than grants constituting scholarships as described in section 4945(g)(1). Such grants are not excludable from the recipients' gross income under section 117(a) as scholarships.

Advice has been requested whether grants made by a private foundation under the circumstances described below are taxable expenditures under section 4945(d) of the Internal Revenue Code of 1954, or whether they are excluded as scholarships described in section 4945(g)(1) or grants to achieve a specific objective described in section 4945(g)(3).

The foundation was formed to aid worthy college students who plan to teach in the public schools of a particular state upon graduation and to attract highly qualified new teachers to the state's public schools. The applicant must indicate that he is willing to teach for two years in the public schools of the state immediately following graduation. However, the foundation regards this agreement as a moral commitment only and does not take any steps to enforce it. Awards are made on an objective and nondiscriminatory basis pursuant to a procedure approved in advance by the Internal Revenue Service.

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)(1) of the Code provides that one type of grant so excluded is a grant constituting a scholarship or fellowship grant which is subject to the provisions of section 117(a) and is to be used for study at an educational institution described in section 151(e)(4).

Section 117(a) of the Code provides that gross income does not include any amount received as a scholarship at an educational institution.

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.

The Supreme Court of the United States has described scholarships as relatively disinterested 'no-strings' educational grants, with no requirements of any substantial quid pro quo from the recipients. See *Bingler v. Johnson*, 394 U.S. 741 (1969). Where a grant is made with a clear expectation that its recipient will render future services to the grantor, it is made primarily for the benefit of the grantor and is not a scholarship described in section 117 of the Code. This is so even where the recipient is not contractually obligated to perform such services. See *John E. MacDonald, Jr.*, 52 T.C. 386 (1969). Moreover, grantor benefit need not be in the form of monetary gain or services rendered directly to the grantor. For example, in *Jerry S. Turem*, 54 T.C. 1494 (1970), The Tax Court found that governmental grants resulted in grantor benefit by inducing recipients to engage in educational activity beneficial to governmental agencies in the attainment of their objectives, even though the general public was expected to be the ultimate beneficiary of the petitioner's education.

Since grants are awarded to those who acknowledge that they plan to teach in a particular State, recipients can reasonably expect recipients to teach in that State upon graduation. Thus, the grants not only further the education of recipients, but further the independent objective of the foundation to attract qualified teachers to State schools. Since the grantor foundation expects the recipients to render substantial services in return for its grants, the grants are not excludable from gross income under the provisions of section 117(a) of the Code, even though the conditions upon which they are awarded are not legally enforceable. Therefore, the grants are not scholarships described in section 4945(g)(1).

However, grants made to attract qualified teachers in order to improve the quality of education in an area are made for a specific objective as described in section 4945(g)(3) of the Code. The grants are also described in section 4945(g)(3) to the extent that they serve to improve or enhance the recipients' teaching skills. Accordingly, the grants to the individuals under the circumstances described are not taxable expenditures under section 4945(d).