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

200233026

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: MAY 23 2002

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Dear Sir or Madam:

This is in reference to B's letter of February 11, 2002, in which you requested rulings that grants made by B pursuant to its C program are not taxable expenditures under section 4945(g) of the Code, and that the grants will not be treated as the carrying on of propaganda or any attempt to influence legislation under section 4945(d)(1) of the Code.

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

The information submitted indicates that B established the C program in 1986 to assist individuals of extraordinary promise to prepare for careers in public service. B has always been the sole sponsor of the C program. The C program provides annual grants for eight students attending D, E or F. These grants are made to the schools to pay for the recipient's tuition and fees for the second (and final) year of graduate study in pursuit of a Master of Public Administration degree (MPA) or a Master of International Affairs degree (MIA).

Applicants for the C program apply prior to the commencement of their second year of study. The applications for the C program are disseminated widely to students eligible to apply by the three graduate schools. The application requires a biographical statement, and a copy of the applicant's academic transcript. Applicants must also submit a short essay on a public policy issue related to one of G's legislative initiatives or areas of interest. After the applications

are submitted, the selection of Fellows is made by the six member executive committee of B. The selection of specific Fellows is based on a variety of factors, including potential for excellence in public service as demonstrated by academic record, expressed commitment to public policy issues and the candidate's essay. Applicants are chosen on a nondiscriminatory basis without regard to race, religion, sex or ethnic background. All applicants must be United States citizens. Applicants are also chosen on a non-partisan basis without regard to political beliefs or affliations.

Upon acceptance of a fellowship, each Fellow agrees that after completion of a degree, he/she will accept a position in the United States Senate for a term of one year. The Fellows' appointments are provided pursuant to Senate resolution. Under this resolution, the Senate authorized up to ten Fellowship participants each year to be placed by the Secretary of the Senate, in consultation with the Majority Leader and the Minority Leader, in positions in the Senate. These positions may include work on the staff of a Senate committee or the staff of a particular Senator. All the Fellow's compensation is paid by the Senate and B does not compensate Fellows for their employment in any manner. Moreover, the Fellows do not, in any way, report to B pertaining to their work for a Senator or a Senate committee.

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 4945(g)(1) of the Code provides that section 4945(d)(3) will not apply to an individual grant awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance by the Secretary, if it is demonstrated to the satisfaction of the Secretary that the grant constitutes a scholarship or fellowship grant which is subject to the provisions of section 117(a) and is used for study at an educational institution described in section 170(b)(1)(A)(ii) of the Code.

Section 4945(d)(1) of the Code imposes taxes on expenditures for two forms of lobbying. These are direct lobbying under section 4911(d)(1)(B) of the Code and grassroots lobbying under section 4911(d)(1)(A) of the Code.

Section 56.4911-2(b)(1)(ii) of the Foundation and Similar Excise Taxes Regulations defines direct lobbying as communication with a legislator or government official when the communication refers to specific legislation and reflects a view on legislation.

Section 56. 4911-2(d)(1)(ii) of the regulations defines "specific legislation" as (i) legislation that has already been introduced in a legislative body and (ii) a specific legislative proposal that the organization supports or opposes.

Section 56.4911-2(b)(2)(ii) of the regulations provides that a communication qualifies as a

grassroots communication only where the communication refers to specific legislation, reflects a view on the legislation, and encourages the recipient of the communication to take action with respect to the legislation.

Based upon the information submitted, and assuming that the C program is conducted as represented by you, in an objective and nondiscriminatory manner in the awarding of fellowship grants, we rule that your procedures for the awarding of the grants satisfy the requirements of section 4945(g)(1) of the Code. Thus, expenditures made in accordance with these procedures will not constitute "taxable expenditures" within the meaning of section 4945(d)(3) of the Code, and as such are eligible for the exclusion from income provided for in section 117(a) of the Code to the extent that such grants are actually used for qualified tuition and related expenses within the meaning of section 117(b)(2) of the Code.

Moreover, we rule that the grants made under the C program would not be treated as the carrying on of propaganda or any attempt to influence legislation under section 4945(d)(1) of the Code. You have represented that following graduation, the Fellow works for the United States Senate under a program that is entirely operated, controlled, and funded by the Senate. Furthermore, the Fellow is not required to report to B on his or her activities at the Senate; and, the Fellow's work on legislation is at the direction, and under the control, of the Senate employer and not on behalf of B.

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.

The approval of your grant-making procedures is a one time approval of your system of standards and procedures for selecting recipients of grants that meet the requirements of section 4945(g)(1) of the Code. Thus, approval will apply to succeeding grant programs only as long as the standards and procedures under which they are conducted do not differ materially from those described in your request.

We are informing the Ohio 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,

Gerald V. Sack

Gerald V. Sack
Manager, Exempt Organizations
Technical Group 4