

## Internal Revenue Service

## Department of the Treasury

Washington, DC 20224

## Person to Contact:

Mr. Kenneth Earnest  
Telephone Number:  
(202) 566-6661

Refer Reply to:

Date:

5 DEC 1980

LEGEND:

X = Prize Fellow Program

Y = *Foundation*

M = \$1,000

A = *Foundation*B = *FOUNDATION*

Prize Fellows Selection

Nominators

DEC 11 1980

Ladies and Gentlemen:

This is in reply to your letter dated July 21, 1980, in which you requested a ruling that X and Y carry out your charitable, scientific, literary and educational purposes within the meaning of section 170(c)(2)(B) of the Internal Revenue Code, that the awards constitute prizes or awards within the meaning of section 74(b) of the Code and that awards under X or Y are not taxable expenditures within the meaning of section 4945 of the Code. The issue of whether awards constitute prizes or awards within the meaning of section 74(b) will not be addressed in this letter. That issue is being referred to the Chief, Individual Income Tax Branch.

*Grantee purpose*  
Our records reveal that you are exempt from federal income tax under section 501(c)(3) of the Code and are a private foundation within the meaning of section 509(a) of the Code. The purpose of X is to provide awards to creative individuals who have demonstrated exceptional talent, originality and dedication. The awards are intended to provide opportunities for the individuals to have the time and freedom from financial responsibilities to add to their past accomplishments. The awards are not intended to finance any specific activities of the individuals and no conditions are imposed.

X shall be in the form of annual payments for a period of five years. Awards will be anywhere from 22M to 55M depending upon the age of the recipient. Each recipient will receive 10M in order to cover work related expenses. If such work involves an educational institution described in section 501(c)(3) that is also a public charity within the meaning of section 509(a) the educational institution will also receive 15M for its use.

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The purpose of Y is similar to that of X but is distinguished by the age of the recipient and the amount and duration of the award. The purpose of the award is to recognize senior individuals who are outstandingly accomplished and whose work has made significant contributions to society. Payments will be made up of the difference between Social Security pensions and other retirement income and 70M. Payment will be for the life of the recipient. Recipients of Y will also be entitled to the work related payment and the payment to the educational institution.

The selection of recipients will be under the direction of A. All recipients will be nominated from the general public by the members of B. No self-nominations will be accepted. No members of A nor any member of the foundation staff involved in the selection process will be able to participate if he or she is in position to derive any private benefit from the grant program. No individual who is a disqualified person with respect to you shall be considered as a candidate. An award once made will be irrevocable.

Section 170(c)(2)(B) of the Internal Revenue Code defines the term "charitable contribution" as a contribution or gift to or for the use of an organization organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes.

Section 4945(d)(3) of the Internal Revenue 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 subsection (g).

Section 4945(d)(5) of the Internal Revenue Code provides that the term "taxable expenditures" means any amount paid or incurred by a private foundation for any purpose other than one specified in section 170(c)(2)(B).

Section 53.4945-4(a)(3)(i) of the Foundation Excise Tax Regulations provides that a grant to an individual for purposes other than those described in section 4945(d)(3) is not a taxable expenditure within the meaning of section 4945(d)(3).

In Rev. Rul. 77-380, 1977-2 C.B. 419 it was decided that certain grants by a private foundation were not taxable expenditures within the meaning of section 4945 of the Code. In Situation 1 the grants were made in recognition of past achievement. They were not intended to finance any future activity of the recipient. There were no conditions to the grant. Thus, the grants were not awards for travel or study within the meaning of section 4945(d)(5) of the Code but were within the scope of section 170(c)(2)(B) of the Code and, according to section 53.4945-4(a)(3)(i) of the regulations would not be taxable expenditures.

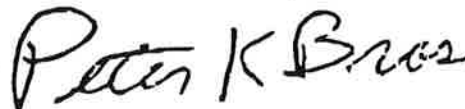
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The purpose of both grants X and Y is to award the recipients for past achievement. You select your recipients from the general public. You select your recipients in an objective and nondiscriminatory fashion. Relatives, members of the selection committee, or individuals standing in a position to gain from the awarding of grants are prohibited from participating in the nominating or selecting process. Based on these facts we rule that the awarding of both grants X and Y serves the charitable purposes described in section 170(c)(2)(B) of the Code.

Both X and Y are grants made to the recipient in recognition of prior achievement. The grant money need not be used for any particular purpose. Therefore, the grant is not for travel, study or other similar purposes and is not subject to the provisions of sections 4945(d)(3) and 4945(g) of the Code. Both X and Y serve charitable purposes within the meaning of section 170(c)(2)(B) and the provisions of Rev. Rul. 77-380 are applicable. Therefore, we rule that both grants X and Y are not taxable expenditures to you.

This ruling is based on the understanding that there will be no material change in the facts upon which it is based and that no grants will be awarded to relatives of directors, members of the selection committee, or for purposes that are inconsistent with the purposes described in section 170(c)(2)(B) of the Code. Any change in your procedures must be reported to the District Director, which is your key district for exempt organization matters.

Sincerely yours,



Peter K. Bros  
Chief, Rulings Section 2  
Exempt Organizations Technical Branch

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

Person to Contact:

James K. Harris

Telephone Number:

(202) 566-3830

Refer Reply to:

Date:

AUG 26 1981

Foundation =

Program = Foundation Prize Fellows Program

X = Prize Fellows

Y = Laureates

\* = Thousand

Dear Sir or Madam:

This is in reply to a letter of July 21, 1980, and subsequent correspondence, submitted by your authorized representatives, requesting a ruling that awards under the Program will not be includible in the gross incomes of the recipients in accordance with section 74(b) of the Internal Revenue Code. From the information submitted, we understand the relevant facts to be substantially as follows.

Foundation, an organization exempt from federal income tax under section 501(c)(3) of the Code and a private foundation within the meaning of section 509(a), established the Program to award individuals for religious, charitable, scientific, educational, artistic, literary or civic achievements. Under the Program, potential recipients are recommended to a selection committee by approximately 100 nominators. The nominators are a diverse group of talented individuals in various endeavors from all parts of the country. The identity of the nominators is unknown to the general public from which the potential recipients are selected. In proposing a nominee the nominator must provide detailed information about the religious, charitable, scientific, etc., achievement of the nominee.

The selection committee is made up of several accomplished individuals including members of Foundation's board of directors. It is the responsibility of the selection committee to select and recommend to the board of directors the most outstanding candidates among the nominees designated by the nominators. In considering the individuals nominated, the selection committee may request further information and references from the nominator, solicit the views and assistance of other persons who know the nominee or might be able to judge his or her qualifications, and consult one or more experts in the nominee's field of endeavor.

In making an award, Foundation will describe the specific achievement being recognized. It is our understanding that an award will not be given to any individual because of his or her employment relationship with any particular institution. Further, any person who is a "disqualified person" within the meaning of section 4946 of the Code will not be eligible to receive an award.

Nominating  
ProcessSelection  
Committee

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There are two kinds of awards under the Program, X and Y. The awards are designed to provide what the Foundation believes will give the recipients freedom from financial responsibility so that they may direct their creativity and energies to whatever effort they freely choose. Both awards are irrevocable and the recipients are not required to perform any future services to receive them.

X awards shall be in the form of annual payments for a period of five years. The amount of the awards will be anywhere between 22½ and 55½ dollars per year depending on the age of the recipient; the older the recipient is, the greater the annual payments. Y awards are given to individuals at or near retirement age and consist of annual payments for the rest of the recipient's life. The amount of a Y award will be sufficient to make up the difference between each recipient's annual retirement income, including Social Security benefits, and 70½ dollars. Foundation will also provide recipients of both awards with an amount to cover reasonable health-care insurance for the recipients and their dependents.

Section 74(b) of the Code provides an exclusion from gross income of any amount received as a prize or award, if (1) such prize or award was made primarily in recognition of past achievement of the recipient in religious, charitable, scientific, educational, artistic, literary, or civic fields; (2) the recipient was selected without any action on his part to enter the contest or proceedings; and (3) the recipient is not required to render substantial future services as a condition to receiving the prize or award.

Only awards for genuinely meritorious achievement are intended to be excluded from gross income under section 74(b), and the crucial test is the nature of the activity being rewarded. Simmons v. United States, 308 F.2d 160 (4th Cir. 1962). The achievement must be in one of the categories set forth in section 74(b). The words "educational," "scientific," etc., are to be interpreted in their ordinary, everyday sense. Hornung v. Commissioner, 47 T.C. 428 (1967), acq., 1967-2 C.B. 2, and Wills v. Commissioner, 411 F.2d 537 (9th Cir. 1969).

Based on the above, we conclude that X and Y awards under the current Program are not includible in the gross income of the recipients, provided the achievement described by the Foundation for which an award is made is in fact a meritorious achievement within one of the categories listed in section 74(b) of the Code.

This ruling is directed only to the taxpayer who requested it. Section 6110(j)(3) of the Code provides that it may not be used or cited as precedent.

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A copy of this letter should be attached to the next information return filed by Foundation. A copy is enclosed for that purpose.

In accordance with the power of attorney on file in this office, a copy of this letter has been sent to your authorized representatives.

Sincerely yours,

*Orley H. Morgan, Jr.*  
Chief, Individual Income Tax Branch

Enclosures 2

*Who choose nominators  
who is on the selection committee  
What is the charitable purpose*