

# Hughes Settles with IRS

*Howard Hughes Medical Institute agrees to pay \$35 million in back taxes and to spend \$500 million over 10 years for a new grants program*

FOR years, the Howard Hughes Medical Institute\* and the Internal Revenue Service have been locked in a battle over the institute's tax status that has left HHMI spending less on medical research than many people, including its own scientific advisers, think it should. At long last, the battle is over. On Monday 2 March, the institute and the IRS reached what HHMI officials describe as a "compromise" that will allow the institute to expand the range of its charitable giving.

Under terms of the settlement, the institute will continue to focus on basic biomedical research, spending 3.5% of its assets (or \$200 million) annually to support HHMI fellows at major research centers. However, it will also spend an additional \$500 million over 10 years to support other types of scientific activities. HHMI might, for instance, fund programs in science education, or make awards to improve research facilities, or buy instruments for the science departments of small colleges.

In addition, HHMI agreed to pay the government \$35 million to "discharge any obligations under the tax laws for years before 1986"—a relatively minor sum to cover 17 years' worth of back taxes on the revenues of the Hughes Aircraft Company of which HHMI was sole owner until it sold the company to General Motors for more than \$5 billion in 1985. Clearly, the institute has good tax lawyers.

Howard Hughes founded the institute that bears his name in 1953 and gave it his aircraft company. A board of medical advisers, comprised of some of the establishment's most respected scientists, was given authority to decide how research funds should be spent, but financial control of HHMI's assets was held by Hughes and his closest aides. The actual numbers of dollars that went to research were consistently rather small during Hughes' lifetime and in the years immediately following his death in 1975, leading the IRS to the conclusion that the institute was Hughes' device for "siphoning off otherwise taxable income." In

its first decade, for instance, HHMI spent only \$6 million on research; in the 1970s its annual expenditures for science were on the order of only \$2 million to \$3 million.

All that began to change by 1984 when a Delaware court, with jurisdiction over Hughes' estate, ordered a reorganization of HHMI's management that included turning full control over to a new board of trustees. Donald S. Fredrickson, former director of the National Institutes of Health, was



named president of HHMI. He began to chart a decidedly more expansive course and also put resolution of the IRS deadlock at the top of the agenda. Spending already was on the rise. By 1984, HHMI was supporting researchers at 12 medical centers, to the tune of \$20 million a year. Then, in 1985, things took off when the trustees sold Hughes Aircraft—HHMI's only asset—and made \$5 billion plus in a single transaction. Research spending jumped to \$150 million in 1985 and was up to \$200 million in 1986. The number of institutions at which Hughes fellows work went from 12 to 22.

The Yale University School of Medicine received \$25 million for a center for molecular medicine. HHMI promised to spend about \$100 million over 10 years to support research at Rockefeller University. A \$60-million HHMI initiative for research in "structural biology"—a merger of experimental approaches in physics and biomedical research—is getting under way at six universities: Baylor, Columbia, University of Texas at Dallas, Harvard, the University

of California at San Francisco, and Yale. According to its guidelines, HHMI focuses on a limited number of areas of research—namely genetics, immunology, metabolic regulation, and neuroscience. And in these areas HHMI's business is booming.

But all along, the unresolved claims of the IRS restricted HHMI's range. Since its founding, the institute defined itself as a "medical research organization (MRO)," which distinguishes it under the tax laws from a foundation, and is less demanding regarding how much money must be spent per year. As a research organization, HHMI insisted for instance that its fellows legally be considered employees, not grantees—a distinction meant to help define itself more as a working institution than a foundation. In order to perpetuate this stance in the absence of an IRS settlement, HHMI has had to behave according to rules governing medical research organizations—hence, its refusal to award grants in the familiar sense of the word.

The fact that the institute and the IRS have finally made peace changes all that and as a result HHMI now gets to have it both ways. According to a statement crafted by its lawyers, "The Institute intends to operate as an MRO under the settlement agreement, engaging directly in the active and continuous conduct of medical research in conjunction with hospitals." But HHMI also will be free to behave more like a foundation when it comes to making awards from the pool of \$500 million it has agreed (most willingly) to spend between now and 1997.

As yet, there is no detailed plan for allocating that money, but it was anticipated about 2 years ago when Fredrickson asked his advisers to play what he called "The Planning Game" in which they were to come up with imaginative ways of spending Hughes money consonant with the goal of promoting "human knowledge within the field of the basic sciences . . ." (*Science*, 7 June 1985, p. 1178). A long list of ideas is waiting to be reviewed, along with what will undoubtedly be a plethora of new requests from would-be beneficiaries.

To help sort it out, Fredrickson has recruited physician-lawyer Joseph G. Perpich to join HHMI as a vice president. Perpich, currently with Meloy Laboratories, a biotechnology company in Virginia, previously worked for Fredrickson at NIH.

The Howard Hughes Medical Institute, the wealthiest private organization of its kind in the country, has enormous potential for putting its own stamp on the course of biomedical research and education in this country. With the IRS settlement in hand, it can focus all its attention on doing that. ■

BARBARA J. CULLITON

\*Howard Hughes Medical Institute, 6701 Rockledge Drive, Bethesda, MD 20817.