

**Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201**

Department of the Treasury

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Employer Identification Number:

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Contact Person - ID Number:

Contact Telephone Number:

UIL: 4945.04-04

LEGEND

B= Applicant
C= Employer
D= Scholarship Corporation
F= Scholarship Program
G= Test 1
H= Test 2

Dear :

We have considered your request for advance approval of your employer-related grant-making program under section 4945(g)(1) of the Internal Revenue Code, dated April 20, 2010.

Our records indicate that you, B, were recognized as exempt from Federal income tax under section 501(c)(3) of the Code and that you are classified as a private foundation as defined in section 509(a).

The information submitted shows that you sponsor scholarships for children and/or relatives of employees of C through D's F program.

Under the F program, you will enter into an agreement with D to sponsor a specified number of college scholarships. Students enter the nationwide scholarship competition by taking a test called the G. Those students scoring within the top one-half of one percent on a state-by-state basis are designated as semifinalists; they may advance to the finalist level by confirming their scores on a second test, the H, and by submitting an application form that includes a high school record (provided by their high school officials) showing strong academic performance, a personal essay, extra-curricular accomplishments and the recommendation of their high school principal or school official designated by the principal.

D selects students from among those children of employees who attained the finalist level to receive B sponsored scholarships. These scholarships comply with the facts and circumstances

test under section 4 of Revenue Procedure 76-47 because the probability of attaining finalist level and therefore being eligible for a scholarship is extremely low. If the number of children who qualify as finalists is less than the number of scholarships that you agree to sponsor, D selects additional "special" scholarship recipients from among high performing students below the finalist level. The number of "special" scholarship recipients is limited to not more than 25% of eligible applicants in accordance with the percentage test of section 4.08 of Revenue Procedure 76-47.

The F program meets the requirements of sections 4.01 – 4.07 of Revenue Procedure 76-47. D administers all aspects of the program and bears all administrative costs. Scholarship recipients are selected by an independent selection committee. D confirms the individual scholarship recipient's enrollment at a college or university in the United States that holds accredited status with a regional accrediting commission on higher education; makes payment of the award through the financial aid office of the institution; and supervises and investigates the use of the scholarships by the recipients in their educational program. Scholarships awarded under the F program are not used as a means of inducement to recruit employees. A student's eligibility is determined at the time the scholarship is offered and a scholarship will not be terminated if the student's parent or relative subsequently terminates employment. The student's eligibility may not be conditioned on any other employment-related factors, such as the parent's position, service or duties. The prior employment period for establishing eligibility may not exceed three years. Students must use their scholarships only to pay educational costs at an institution that meets the requirements of section 170(b)(1)(A)(ii) of the Code.

Sections 4945(a) and (b) of the Code impose certain excise taxes on "taxable expenditures" made by 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 subsection (g).

Section 4945(g) of the Code provides that section 4945(d)(3) shall not apply to individual grants awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance if it is demonstrated that:

- (1) The grant constitutes 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 organization described in section 170(b)(1)(A)(ii);
- (2) The grant constitutes a prize or award which is subject to the provisions of section 74(b), if the recipient of such prize or award is selected from the general public, or
- (3) The purpose of the grant is to achieve a specific objective, produce a report or 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(c)(1) of the Regulations provides that to secure approval, a private foundation must demonstrate that:

- (i) Its grant procedure includes an objective and nondiscriminatory selection process;
- (ii) Such procedure is reasonably calculated to result in performance by grantees of the activities that the grants are intended to finance; and
- (iii) The foundation plans to obtain reports to determine whether the grantees performed activities that the grants are intended to finance.

Revenue Procedure 76-47, 1976-2 C.B. 670, sets forth guidelines to be used in determining whether a grant made by a private foundation under an employer-related program to a child of an employee of the particular employer to which the program relates is a scholarship grant that meets the provisions of section 117(a) of the Code (as that section read before the Tax Reform Act of 1986). If a private foundation's program satisfies the seven conditions set forth in Sections 4.01 through 4.07 of Rev. Proc. 76-47 and meets the percentage test described in Section 4.08, the Service will assume the grants meet the provisions of section 117(a), as that section read before the Tax Reform Act of 1986.

You have agreed that procedures in awarding grants under your program will be in compliance with Sections 4.01 through 4.07 of Rev. Proc. 76-47 (without regard to the amendments to section 117(a) made by the Tax Reform Act of 1986). In particular, the selection of individual grant recipients will be made by a selection committee the members of which are totally independent and separate from the private foundation, the foundation's creator, and the relevant employer. The grants will not be used as a means of inducement to recruit employees nor will a grant be terminated if the employee leaves the employer. The recipient will not be restricted in a course of study that would be of particular benefit to the relevant employer or to the foundation.

Section 4.08 of Rev. Proc 76-47 provides a percentage test guideline. It states in the case of a program that awards grants to children of employees of a particular employee, the program meets the percentage test if either of the following tests are met: the number of grants awarded under that program in any year to such children do not exceed 25 percent of the number of employees' children who were eligible, were applicants for such grants, and were considered by the selection committee in selecting the recipients of grants in that year, or the number of grants awarded under the program in any year to such children does not exceed 10 percent of the number of employees' children who can be shown to be eligible for grants (whether or not they submitted an application) in that year.

You have agreed that your program will meet the requirements of either the 25 percent or 10 percent percentage test of Section 4.08 applicable to a program that awards grants to children of employees of a particular employer. Records should be maintained to show that you meet the applicable percentage test of Section 4.08

This determination is issued with the understanding that in applying the 10 percent test applicable to employees' children set forth in Rev. Proc. 76-47, you will include as eligible only those children who meet the eligibility standards described in Rev. Proc. 85-51, 1985-2 C.B. 717.

This determination will remain in effect as long as the procedures in awarding grants under your program remain in compliance with Sections 4.01 through 4.08 of Rev. Proc. 76-47 (without regard to the amendments to section 117(a) made by the Tax Reform Act of 1986). If you enter into any other program covering the same individuals, the percentage test of Rev. Proc. 76-47 must be met in the aggregate.

Based on the information submitted and assuming your award programs will be conducted as proposed, your procedures for granting the awards comply with the requirements contained in section 4945(g)(1) of the Code and that awards granted in accordance with such procedures will not constitute "taxable expenditures" within the meaning of section 4945(d)(3).

In addition, we have determined that awards made under your procedures are excludable from the gross income of the recipients subject to the limitations provided by section 117 of the Code.

This determination is conditioned on the understanding that there will be no material change in the facts upon which it is based. It is further conditioned on the premise that no grants will be awarded to foundation managers, or members of the selection committee, or for a purpose that is inconsistent with the purpose described in section 170(c)(2)(B) of the Code.

The approval of your employer-related grant-making program is a one-time approval. This determination only covers the grant programs described above. Thus, approval shall apply to subsequent 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.

Any funds you distribute to individuals must be made on a true charitable basis in furtherance of the purposes for which you are organized. Therefore, you should maintain adequate records and histories so that any or all grant distributions can be substantiated upon request by the Internal Revenue Service.

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

You must report any future changes in your grant making procedures. Please keep a copy of this letter in your permanent records.

We have sent a copy of this letter to your representative as indicated in your power of attorney.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

Robert Choi
Director, Exempt Organizations
Rulings and Agreements