

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

Department of the Treasury

**Release Number: 201203029
Release Date: 1/20/2012
Date: 10/27/2011**

Employer Identification Number:

Contact Person - ID Number:

Contact Telephone Number:

LEGEND

UIL 4945.04-04

**B=
C=
D=
X=**

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 September 27, 2010.

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

Your letter indicates that you will operate a grant-making program called B.

The purpose of B is to provide scholarships to a limited number of children of the employees of C. The amount of each grant will be x dollars. Half of the grant will be paid for the fall semester and the remainder will be paid at the beginning of the spring semester. The spring semester scholarship will be forfeited if the student fails to complete the fall semester or maintain a minimum of 12 credits or the equivalent. The grants are for authorized college expenses which are defined as tuition, fees, and/or course-related expenses such as books, supplies and equipment at accredited post-secondary education institutions.

In order to be eligible to be selected for B, a candidate must be the child of active employees of C who:

- a. Is entering their senior year in high school or currently enrolled as a freshman, sophomore, or junior at a 4-year college/university,

- b. Reasonably expect to attend (or continue to attend) an accredited college or university in the following academic year,
- c. Meet the minimum standard for admission to (or continued enrollment in) such an institution,
- d. Must maintain a minimum course load of 12 credits, and
- e. Must have a cumulative grade point average of 2.50 or better.

"Child" or "Children" is defined as biological children, legally adopted children, stepchildren living in an employee's household, children born out of wedlock if a valid state Affidavit of Paternity is signed with respect to such child, and grandchildren of employees who are the legal guardians of said grandchildren.

The term "active" means employees at the time the grant application is signed and submitted, as well as the time the award is offered.

Family members of "disqualified persons" of the foundation (substantial contributors to the foundation, directors and officers of the foundation, or individuals who, together with their family members, own 20% or more of a corporation that is a substantial contributor to the foundation) are not eligible, nor are children of selection committee members. Children of officers of C are not eligible for B.

An external selection committee, composed of five administrators from D, will choose the recipients. The committee will be advised by a member of the foundations board, who will affirm that the recipients meet the requirements of B, but will have no influence on the committee's selections.

Employees may be informed of the availability of the scholarship grants through a company newsletter for the employees of C. There will also be a web page added to C's web site containing information regarding the program.

C will not use B to recruit employees or induce employees to continue their employment or other wise use the program to influence the action of C employees.

The courses of study for which B is available will not be limited to those that would be of particular benefit to C. The award will not terminate if the recipient's parent terminates employment with C before the spring semester begins. B is not used as an employee recruiting tool or to induce employees to continue their employment or otherwise follow a course of action sought by C.

Eligible applicants will apply for B by completing an application that requests information regarding academic performance, performance on filed of study college entrance exams, extracurricular activity, community service, work experience and recommendations.

Applicants from all employment locations will be placed in a single pool. The number of scholarships awarded each year will be the lesser of 5 or 25% of the number of employees' children who (i) were eligible, (ii) applied, and (iii) were considered by the selection committee.

B is not renewable. Grantees receiving B may apply for subsequent scholarships in succeeding years so long as they continue to be enrolled as students in good standing at an accredited college or university and continue to meet all of the other eligibility

requirements of the program. Any subsequent award will not be considered a renewal of the initial or any prior award. A prior award will in no way guarantee recipients of successive year awards.

The foundation will disburse B by making them payable to the educational institution attended/to be attended by the recipient and the scholarship recipient. The institution will be instructed to apply the grant funds only for enrolled students in good standing.

If the foundation learns that the terms of B were violated, the foundation will take all reasonable steps to recover diverted funds, and will withhold any subsequent grant awards until it obtains assurances that further diversions will not occur and that grantees will take extraordinary precautions to prevent future diversions from occurring.

You have agreed to maintain records that include the following:

- Information used to evaluate the qualifications of potential grantees;
- Identification of the grantees (including any relationship of any grantee to the private foundation), the amount and purpose of each grant; and
- All grantee reports and other follow-up data obtained in administering the private foundation's grant program

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(k)(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,

Lois G. Lerner
Director, Exempt Organizations

Enclosure: