

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

**Department of the Treasury**

Release Number: **201533020**  
Release Date: 8/14/2015  
Date: **May 18, 2015**

**Employer Identification Number:**

**Contact person - ID number:**

**Contact telephone number:**

**LEGEND:**

**UIL: 4945.04-04**

r dollars = dollar amount  
s dollars = dollar amount  
X= scholarship program  
Y= company  
Z= county board of educational services

Dear :

You asked for advance approval of your employer-related scholarship grant procedures under Internal Revenue Code section 4945(g). This approval is required because you are a private foundation that is exempt from federal income tax. You requested approval of your scholarship program to fund the education of certain qualifying students.

**Our determination**

We approved your procedures for awarding employer-related scholarships. Based on the information you submitted, and assuming you will conduct your program as proposed, we determined that your procedures for awarding employer-related scholarships meet the requirements of Code section 4945(g)(1). As a result, expenditures you make under these procedures won't be taxable.

Also, awards made under these procedures are scholarship or fellowship grants and are not taxable to the recipients if they use them for qualified tuition and related expenses (subject to the limitations provided in Code section 117(b)).

**Description of your request**

You will operate an employer-related scholarship program called X, to provide access to education and encourage the professional development of the children and grandchildren of Y's employees. To accomplish this purpose, you will provide financial assistance in the form of scholarships to the children and grandchildren of Y's employees for post-secondary education in the United States, including two and four year colleges as well as trade, vocational, and certificate granting programs. No scholarships will be issued to Y's employees.

In the event that an employee of Y has more than one child or grandchild, all eligible children and grandchildren of that employee may apply. Each applicant must submit his or her own application and each application will be evaluated separately.

Children, grandchildren, or other close relatives of your officers, directors, substantial contributors, and other individuals considered disqualified persons under Section 4946 of the Code are not eligible for scholarships. Further, members of the selection committee and their close relatives are not eligible for scholarships.

You will publicize X through several forms of communication to Y's employees, which may include email announcements, informational flyers in the workplace, direct mailing, and posting an overview of X on Y's and your website. All communications will clearly identify you as the grantor of the awards. The awarding of scholarships under X will be publicized in Y's newsletter.

The applicant will be required to complete a scholarship application, submit an essay or personal statement, transcript, resume, three letters of recommendation, and may be interviewed by one or more members of the selection committee.

The selection committee will review all applications and determine who will receive a scholarship based on standards unrelated to the employment of the applicants' parents or grandparents and to Y's line of business. Selection of recipients is based on several specific criteria, including the applicant's educational goals and reasons the applicant is a good candidate for scholarship support, evidence of positive character traits and strong work ethic as evidenced by outside commitments, such as employment, dedication to his or her community through volunteering in civic activities, and meeting other communal responsibilities. In making the determination there will be no discrimination based on race, national origin, religion, sexual orientation, or gender.

An awardee's parent or grandparent must still be employed with Y at the time award recipients are announced.

The number of scholarships awarded each year will be determined by the percentage tests set forth in Revenue Procedure 76-47.

The amount of each scholarship will be determined exclusively by the selection committee. You estimate scholarships under X to range in amount from r dollars to s dollars per student annually. Scholarships must be made in the order recommended by the selection committee. You reserve the right to decrease, but not increase, the number of scholarships to be awarded under X in any given year. In addition, the selection committee will consider each student's cost of education (tuition, books, equipment, room and board), the type of educational institution to be attended, and your resources to determine the amount of each scholarship to be made under X, subject to the given range.

Applicants are required to be (or become) enrolled in a post-secondary educational institution on a part-time or full-time basis. Scholarships are renewable for up to three years. Each renewal of a scholarship is contingent on the recipient's continued enrollment and good standing in a post-secondary educational institution. If a recipient fails to remain in good standing with his or her educational institution, the selection committee may accommodate a recipient if such poor status is a result of extenuating circumstances (for example, a temporary withdrawal due to the illness of a close family member). Finally, renewals will not be conditioned upon the continued employment of the recipient's parent or grandparent at Y.

You will disburse scholarship funds directly to educational institutions and will require such institutions to return the funds if a scholarship recipient fails to enroll or drops out of the institution's program. In the event of a misuse of scholarship funds received under X, you will determine if the situation is a mistake, whether it can be corrected, and then take appropriate action. If it is determined that scholarship funds received under X have been misused, you will seek the return of all or some of X scholarship funds and cease making additional disbursements.

You will maintain detailed case histories. You expect to maintain these records for a period of at least four years after the scholarship recipient has graduated from, or failed to enroll in, the school he/she attended, or was expected to attend. You will periodically review your case histories to evaluate the effectiveness and history of X.

Z is a regional permanent standing selection committee comprised of school superintendents, principals, and guidance counselors. Z is operated independently of you. Your selection committee will be comprised of a three member subset of Z. The members of your selection committee will be appointed by Z, without your input, and the composition of the selection committee will vary depending upon the availability of the individuals serving on Z.

#### **Basis for our determination**

The law imposes certain excise taxes on the taxable expenditures of private foundations (Code section 4945). A taxable expenditure is any amount a private foundation pays as a grant to an individual for travel, study, or other similar purposes. However, a grant that meets all of the following requirements of Code section 4945(g) is not a taxable expenditure.

- The foundation awards the grant on an objective and nondiscriminatory basis.
- The IRS approves in advance the procedure for awarding the grant.
- The grant is a scholarship or fellowship subject to Code section 117(a).
- The grant is to be used for study at an educational organization described in Code section 170(b)(1)(A)(ii).

Revenue Procedure 76-47, 1976-2 C.B. 670, provides guidelines to determine whether grants a private foundation makes under an employer-related program to employees or children of employees are scholarship or fellowship grants subject to the provisions of

Code section 117(a). If the program satisfies the seven conditions in sections 4.01 through 4.07 of Revenue Procedure 76-47 and meets the applicable percentage tests described in section 4.08 of Revenue Procedure 76-47, we will assume the grants are subject to the provisions of Code section 117(a).

You represented that your grant program will meet the requirements of either the 25 percent or 10 percent percentage test in Revenue Procedure 76-47. These tests require that:

- The number of grants awarded to employees' children in any year won't exceed 25 percent of the number of employees' children who were eligible for grants, were applicants for grants, and were considered by the selection committee for grants, or
- The number of grants awarded to employees' children in any year won't exceed 10 percent of the number of employees' children who were eligible for grants (whether or not they submitted an application), or
- The number of grants awarded to employees in any year won't exceed 10 percent of the number of employees who were eligible for grants, were applicants for grants, and were considered by the selection committee for grants.

You further represented that you will include only children who meet the eligibility standards described in Revenue Procedure 85-51, 1985-2 C.B. 717, when applying the 10 percent test applicable to employees' children.

In determining how many employee children are eligible for a scholarship under the 10 percent test, a private foundation may include only those children who submit a written statement or who meet the foundation's eligibility requirements. They must also satisfy certain enrollment conditions.

You represented that your procedures for awarding grants under this program will meet the requirements of Revenue Procedure 76-47. In particular:

- An independent selection committee whose members are separate from you, your creator, and the employer will select individual grant recipients.
- You will not use grants to recruit employees nor will you end a grant if the employee leaves the employer.
- You will not limit the recipient to a course of study that would particularly benefit you or the employer.

**Other conditions that apply to this determination:**

- This determination only covers the grant program described above. This approval will apply to succeeding grant programs only if their standards and procedures don't differ significantly from those described in your original request.
- This determination is in effect as long as your procedures comply with sections 4.01 through 4.07 of Revenue Procedure 76-47 and with either of the percentage

tests of section 4.08. If you establish another program covering the same individuals, that program must also meet the percentage test.

- This determination applies only to you. It may not be cited as a precedent.
- You cannot rely on the conclusions in this letter if the facts you provided have changed substantially. You must report any significant changes to your program to the Cincinnati Office of Exempt Organizations at::

Internal Revenue Service  
Exempt Organizations Determinations  
P.O. Box 2508  
Cincinnati, OH 45201

- You cannot award grants to your creators, officers, directors, trustees, foundation managers, or members of selection committees or their relatives.
- All funds distributed to individuals must be made on a charitable basis and further the purposes of your organization. You cannot award grants for a purpose that is inconsistent with Code section 170(c)(2)(B).
- You should keep adequate records and case histories so that you can substantiate your grant distributions with the IRS if necessary.

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

Please keep a copy of this letter in your records.

If you have questions, please contact the person listed at the top of this letter.

Sincerely,

Director, Exempt Organizations