

**Internal Revenue Service**

P.O. Box 2508  
Cincinnati, OH 45201

**Department of the Treasury**

Release Number: **201702038**

Release Date: 1/13/2017

Date: **September 22, 2016**

**Employer Identification Number:**

**Contact person - ID number:**

**Contact telephone number:**

**LEGEND:**

u = dollar amount

v = dollar amount

W = year

X= scholarship 1

Y= scholarship 2

Z= company

**UIL:**

4945.04-04

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 two employer-related scholarship programs, X and Y.

Your purpose is to provide financial assistance to young people who show a desire to continue their formal education. You provide financial support to local area schools that support and promote Science, Technology, Engineering and Mathematics (STEM) education opportunities in your local communities. You also support other worthwhile family centered activities that improve the quality of life for all within your communities.

The purpose of X is to award high school seniors who have demonstrated high academic performance, leadership, and participation in high school and community activities an educational scholarship. The scholarship is for v dollars per year and is renewable for up to three years (for a total of four years). Students receiving this award must be enrolled in a full-time post-secondary study program that will lead to a baccalaureate (bachelor's) degree from an accredited educational institution.

The purpose of Y is to award high school seniors a one-time u dollars award for students who will be enrolled in any post- secondary study program at an accredited educational institution, including a technical school, vocational school, or a certification or apprenticeship program. Selection criteria may include motivation to succeed, leadership and participation in school and community activities, significant improvement in high school attendance and/or GPA, overcoming a significant obstacle, and work experience.

Scholarship applications will be promoted and solicited by the information on your webpage. You will also provide information on the scholarship program to Z employees, directing them to your website for more information.

Each scholarship applicant will be required to submit a scholarship application and a complete grades transcript. The application includes a brief essay and references.

Awards under this program will be provided to children of employees of Z. Employees must have been employed at least one year at Z for their children to be eligible.

You impose identifiable minimum requirements for scholarship eligibility related to the purposes of the scholarship program. Eligibility criteria for the scholarships include:

- The applicant must be currently enrolled in his or her final year of high school/secondary school
- The applicant must be planning to enroll in full-time study at a college, university, two- year college, vocational-technical school or certification or apprenticeship program. Certification or apprenticeship programs must be sponsored by an accredited educational institution (including vocational-technical schools)
- Applicants may only apply for X or Y, and not both

An independent selection committee composed of persons unrelated to you and Z reviews all scholarship applications and awards the scholarships based on the following criteria:

- Academic performance
- Motivation for pursuing education
- Reference letters
- Demonstrated financial need

You also provided numerical data relating to the scholarships awarded in W. You demonstrated you met the safe harbor standard under section 4.08 of Revenue Procedure 76-47 by applying the facts and circumstances test as described in section 4.

You will maintain case histories showing recipients of your awards, including names, addresses, purposes of awards, amount of each grant, manner of selection, and relationship (if any) to officers, trustees, or donors of funds to you.

Relatives of members of the selection committee, or of your officers, directors, or substantial contributors are not eligible for awards made under your program.

You will (1) arrange to receive and review grantee reports annually and upon completion of the purpose for which the grant was awarded, (2) investigate diversions of funds from their intended purposes, and (3) take all reasonable and appropriate steps to recover diverted funds, ensure other grant funds held by a grantee are used for their intended purposes, and withhold further payments to grantees until you obtain grantees' assurances that future diversions will not occur and that grantees will take extraordinary precautions to prevent future diversions from occurring.

You will maintain all records relating to individual grants, including information obtained to evaluate grantees, identify whether a grantee is a disqualified person, establish the amount and purpose of each grant, and establish that you undertook the supervision and investigation of grants.

#### **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,

Jeffrey I. Cooper  
Director, Exempt Organizations  
Rulings and Agreements