

**Internal Revenue Service**

P.O. Box 2508  
Cincinnati, OH 45201

**Department of the Treasury**

Release Number: **201826016**

Release Date: 6/29/2018

**Employer Identification Number:**

**Contact person - ID number:**

**Contact telephone number:**

**Date: April 6, 2018**

**LEGEND**

UIL: 4945.04-04

C = Employer

D = Organization

x dollars = Amount

y dollars = Amount

z = Number

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**

Your letter indicates you will operate an employer-related scholarship program.

The purpose of your program is to provide scholarship grants to help students who have shown financial need and are dependents of employees of C complete their educational goals. You will publicize the program to C employees through e-mails, posters, web

postings and postal mailings. C's applicable Human Resource Departments will also have information about the program.

To be eligible, applicants must:

- a. Be dependent children of full-time employees of C who have a minimum of 6 months employment with C at the application deadline date.
- b. Be high school seniors or current postsecondary undergraduates.
- c. Plan to enroll in fulltime undergraduate study at an accredited two or four-year college or university for the entire upcoming academic year.
- d. Have a minimum grade point average of 2.0 on a 4.0 scale (or its equivalent).

To administer and disburse the scholarships for your program, you have hired D. D has developed your application which must be submitted to D with copies of transcripts of grades, complete responses to the short answer questions, financial information and an appraisal completed by a school counselor or adviser, an instructor, or a work supervisor who knows the applicant well.

D personnel will comprise the Selection Committee and will replace members as needed. The Selection Committee will choose the recipients based on financial need, academic achievement, and the short answer responses on the application form.

D will be responsible for confirming the recipients are enrolled at an accredited college or university and will be providing confirmations to you. D will make all award payments directly to the school.

The amount of each grant will be up to x dollars per year and may be increased in the future but not to exceed y dollars per year. The number of grants awarded in any year to such children will 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. At this time, you plan to award up to z scholarships.

Award recipients are eligible to renew the scholarship awards up to three years or until a bachelor's degree is earned, whichever occurs first as long as they submit a complete transcript of grades showing that they have maintained a cumulative grade point average of 2.0 on a 4.0 scale or its equivalent.

You will retain records pertaining to the qualifications of the potential recipients, confirmations that no disqualified persons have received grants, the amount of each grant and documentation showing the grants were used for qualifying expenses, and grade reports. If the terms of the award are violated, you will notify the grant recipient of such violation in writing and terminate the grant. You will withhold any future payments, investigate and recover any diverted funds, obtain written assurance from the grantee that extra precaution will be taken and future diversions will not occur, and terminate the grant if you discover the funds are not being used as intended.

Concerning Revenue Procedure 76-47, you indicated that:

- You will award scholarships in a manner that is neither compensatory nor a significant benefit to C.
- The scholarship program will not be used by you or C to recruit employees or retain employees.
- The Selection Committee will be independent of you and C. If you decide in the future to add a member to the Selection Committee outside of D, you will insure that only totally independent individuals that are separate from you and C will be on the Selection Committee. In addition, the Selection Committee members will not be employees of C or related parties, former employees, officers, or relatives of such individuals.
- The eligibility requirements for the program are not related to any employment related factors, such as the employee's position, services, or duties.
- The selection criteria are objective, measurable and completely unrelated to the employment of the recipients' parents and to C's line of business.
- The course of study that the recipients pursue is not determined by you or C and, therefore, would not be of benefit to you or C.
- There are no terms of the grants that include any commitments, understanding or obligations, conditional or unconditional, suggesting that the studies are for the benefit of you or C.
- The number of grants awarded each year will not exceed 25% of the number of employees' children who (i) were eligible, (ii) were applicants for such grants, and (iii) were considered by the selection committee in selecting the recipients of grants in that year.
- A grant will not be terminated because the recipient's parent terminates employment with C regardless of the reason for such termination of employment.

#### **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. :

- 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.

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,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements