

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

Department of the Treasury

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Release Date: 2/22/2019
Date: November 28, 2018

Employer Identification Number:

Contact person - ID number:

Contact telephone number:

LEGEND:

B = company 1
C = company 2
D = company 3
E = company 4
f = number
g dollars = amount

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 an employer-related scholarship program to provide educational scholarships to the dependents of employees of B, C or D by selecting qualified individuals to receive grants to advance their education. Your program will be operated in part with a third-party administrator, E.

Scholarships will be promoted among the eligible group of dependents through communications in the communities where eligible B, C or D employees are located.

To be eligible for scholarship consideration, an applicant must:

- a. Be a dependent of an active, full-time B, C or D employee who has been with them for a minimum one-year employment as of the application deadline. Dependents for this purpose include any individual in any of the following three groups: (i) individuals who are enrolled in a medical plan of B, C or D as a dependent of an employee; (ii) individuals claimed as a dependent on an employee's federal tax return; and (iii) descendants (biological, adopted or by marriage) of an employee who are part of an employee's household for federal tax purposes.
- b. Be a high school graduate or current postsecondary undergraduate age 26 or under; excluding spouses and life partners of employees.
- c. Have a cumulative grade-point average of 3.0 or higher at the time of applying.
- d. Plan to be enrolled in full-time undergraduate study at an accredited two- or four-year college (excluding proprietary and online-only school) or vocational-technical school for the entire upcoming academic year.

Substantial contributors, foundation managers, officers, directors, and B, C or D managers, officers and directors, as well as their family members, will be ineligible to participate in the program.

E, as the third-party administrator, will develop and collect applications, manage the selection committee, select recipients and awards scholarships. The selection committee consists wholly of individuals totally independent and separate from B, C or D. When reviewing applications, the selection committee will consider the following criteria:

- Unusual personal or family circumstances
- Financial need
- Statement of career and educational aspirations and goals
- Leadership and participation in school and community activities
- Work experience
- Academic achievement

Applicants will provide evidence of financial need, academic transcripts, and any other documentation the selection committee may request. Personal interviews may be conducted. A rubric may be used to weigh each of the criterion above to select recipients. Favorable recipients would have a strong application that shows unusual circumstances and financial need, demonstrated goals and aspirations, community participation and leadership, work experience, and academic achievement. A lottery system will not be used.

In accordance with Revenue Procedure 76-47, section 4.08, the total number of scholarships awarded will not exceed either (i) 25% of the number of employee dependents who were eligible, applied for such grants, and were considered by the selection committee, or (ii) 10% of the number of employee dependents who can be shown to be eligible for grants (whether or not they submitted an application) in that year.

The number and amount of individual grants that may be awarded will depend on the philanthropic priorities of your board and available funds. In any event, the number of awards shall not exceed either (1) % of the number of B, C or D employee dependents who (i) were eligible, (ii) applied for such grants, and (iii) were considered by the selection committee, or (2) % of the number of B, C or D employee dependents who can be shown to be eligible for grants (whether or not they submitted an application) in that year.

For purposes of calculating % of the eligible employee dependents, eligibility will be based on the number of individuals who are enrolled in a medical plan of B, C or D as a dependent of an employee and meet the eligibility criteria. The eligibility criteria will ensure the pool of eligible employee dependents meet the minimum standards for admission to an educational institution, and can be reasonably expected to attend such an institution, in compliance with Revenue Procedure 85-51. B, C and D will maintain records of the number of employee dependents meeting this criterion.

Currently, f awards, of up to g dollars each, are awarded annually. You provide the funds to E for awarding scholarships.

E will be required to operate in compliance with Revenue Procedure 76-47, and related rulings, including supervision requirements. As such, any apparent misuse of funds will be promptly investigated. If funds have, in fact, been misused, the recipient will be required to immediately return the funds, and no further distributions will be made for that recipient.

Scholarships are not renewable. Any prior recipient that continues to be eligible may apply again. Per Revenue Procedure 76-47, in the case of applicants who received prior awards, the employment requirement will be waived.

Per Revenue Procedure 76-47, you attest that scholarships will not be used by B, C or D, to recruit employees or to induce employees to continue employment or otherwise follow a course of action sought by B, C or D. No recipient or parent is expected to render future services for B, C or D, or to be available for such future employment.

B, C or D will not limit in any way the courses of study for which scholarships are available, and does not otherwise encourage students to choose courses of study that of any benefit to B, C or D.

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,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements