

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

Department of the Treasury

Number: **201943029**
Release Date: 10/25/2019

Date: July 29, 2019

Employer Identification Number:

Contact person - ID number:

Contact telephone number:

LEGEND

UIL: 4945.04-04

X = Name
Y = Employer

b dollars = Amounts
c dollars = Amount

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 called X. The purpose of X is to establish and operate an educational scholarship program for the dependent children of the employees of Y. Award amounts under X cannot exceed the cost of tuition, must be used for undergraduate studies at an accredited educational

institution and are eligible for renewal up to three additional years or until completion of a vocational, associate, or bachelor's degree is earned, whichever occurs first. Awards may not be used by the recipient toward other education related expenses such as books, room and board, course materials, laboratory fees, and/or transportation.

To advertise X, you will ensure that the employees of Y become aware of X through emails and through Y's newsletter. These materials will provide details about X as well describe the application process and the eligibility criteria.

To determine eligibility for X, you will use the following criteria:

- Applicants must be in their final year of high school or currently enrolled in a post-secondary school, have a minimum GPA of 2.50, and have been accepted to a university, college, vocational school, or certification program at a qualified educational institution.
- Both the employee and the applicant must be a citizen or national of the United States, or a legal resident via a green card or work visa.
- Applicants must be dependent children of employees of Y who have worked full-time (thirty hours per week or more) for at least one year for Y.

Furthermore, you define dependent children of employees as a biological or adopted child of an employee that has the same principal place of abode as the employee for more than one-half of each calendar year and either has not attained the age of 19; is a student who has not attained the age of 24 and has not provided more than one-half of their own support or filed a joint tax return with a spouse for the calendar year.

In addition, a stepchild, foster child, or grandchild, a domestic partner's child, or a child who has been an employee's ward for at least 24 months under a court-approved legal guardianship immediately prior to submitting an application may be considered a dependent and thus eligible for X if the child has not attained the age of 24, has lived with the eligible employee for at least 24 months immediately prior to submitting an application, and meets one of the following: (1) The child is the employee's dependent for federal income tax purposes; (2) The employee provides more than 50% of the child's financial support; or (3) The child lives primarily with the employee when the child is not away at school.

To apply for X, applicants must submit a completed application with numerous attachments including official transcripts, letters of recommendations from unrelated individuals, and an essay.

Recipients of X will be chosen by a Selection Committee consisting of at least three individuals appointed by your Trustees based on their experience in business and education fields and who are completely independent from an employee or family member of you and X. Furthermore, committee members will serve until they either resign or are removed or replaced by your Trustees.

To evaluate applications and select recipients, the Selection Committee will consider the applicant's:

- Prior academic performance;
- Extracurricular activities, community involvement, and demonstration of leadership;
- Statement of goals and aspirations;
- Financial need;
- Letters of recommendation.

You will notify the recipients and verify they are enrolled in a qualified educational institution. Awards are paid directly to the school of enrollment for the awarded applicant and may be used only for tuition. Under no circumstances will funds be disbursed to the award recipient or the recipient's parent(s)/guardian(s). If a recipient withdraws from the educational institution before completion of the academic period or program covered by the scholarship, the school must send any refund of the scholarship back to you, not the recipient.

Renewal is contingent upon satisfactory academic performance and the continuation of the X program. Furthermore, the recipient may not be considered ineligible for a further grant simply because the individual's parent/guardian is no longer employed by Y. If a grant is awarded for a period of more than one academic year, subject to renewal, the standards for renewal must be based solely upon nonemployment related factors such as need and maintenance of scholastic standards. Renewal may not be denied because the parent/guardian has previously terminated employment with the employer.

You plan to conduct your scholarship program in accordance with Sections 4.01 through 4.07 of Revenue Procedure 76-47. You currently plan to award up to four scholarship grants per year in the range of v dollars and expect to meet the 10 percent test of Section 4.08 of Rev. Proc. 76-47. In the future, you plan to increase the total number of scholarships you award to as many as eight scholarships totaling as much as c dollars so long as the total number of scholarships awarded does not exceed 10 percent of the number of employees' children who can be shown to be eligible for scholarships each year.

You represent that you will maintain all records related to the following: (1) individual grants including information to evaluate grantees, (2) grantees which are identified as a disqualified person, (3) how the amount and purpose of each grant was established, and (4) how you established supervision and investigation of the grants described above.

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.

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