

**Internal Revenue Service**

P.O. Box 2508  
Cincinnati, OH 45201

**Department of the Treasury**

Number: **202042016**

Release Date: 10/16/2020

**Date:** July 21, 2020

**Employer Identification Number:**

**Contact person - ID number:**

**Contact telephone number:**

**LEGEND:**

B = company 1  
C = company 2  
x = amount 1  
y = amount 2  
z = number

**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 award scholarships to eligible students for post-secondary study at institutions that are accredited universities, four-year colleges, two-year junior colleges, trade schools or vocational schools for tuition, fees and related expenses (books, supplies and equipment). There is no restriction on the course of study that may be pursued by a recipient.

Potential recipients must demonstrate an aptitude and motivation for post- secondary study, show potential for scholastic and career achievement, and satisfy any other criteria that your Board of Directors deem relevant.

Your program will be administered by B (or in the future a successor organization also experienced in administering scholarship programs); a public charity experienced in administering scholarship programs for companies and other organizations in compliance with IRS rules.

You will publicize the scholarship program to all employees of C through e-mail communications and other potential communications. Information will also be provided to new hires of C. You may also make the program known to eligible individuals through other methods.

You will maintain case histories showing recipients of your scholarships, fellowships, educational loans, or other educational grants, including names, addresses, purposes of awards, amount of each grant, manner of selection, and any relationship(s) to your officers, trustees, or donors.

Eligible candidates for scholarships will consist of children of employees (who have been employed for a minimum of six months) of C. Applicants must be high school seniors, high school graduates, or college undergraduates. You affirm that you will not provide scholarships to employees of C.

In determining eligibility, there will be no limitations based on race. Children and dependents of your directors and officers (or of any member of the Scholarship Selection Committee) will not be eligible to apply for scholarships.

The selection of recipients will be based on various criteria related to the program's purposes. Criteria may include, for example, high school grade point average, other academic achievements, participation in extra-curricular activities (both at school and in the community), recommendations from teachers or persons in the community, and possibly a personal interview.

As an initial procedure, it is expected that candidates will complete a scholarship application form noting various information regarding the applicant's personal history and achievements and future study plans. The selection of recipients will be made by a Scholarship Selection Committee. This Committee will review all application information and recommendations before making final selections of recipients.

The number and dollar amount of the scholarships may vary each year, depending on your resources. In the initial year of the program, you may, for example, award z scholarships, in the range of x and y dollars, for each scholarship. Each scholarship will be initially awarded for one scholastic year. The scholarship may be renewed annually, for up to three additional years, thereby covering a four-year program. A student must remain in good standing as a student at his/her educational institution for the scholarship to be renewed for each year.

For each scholarship, it is anticipated that the scholarship will be paid directly to the educational institution where the student is attending. The educational institution will apply the scholarship funds for the benefit of the student (i.e., paying for tuition and related fees) as long as the student continues to be enrolled at the institution in good standing in satisfaction of the requirements of Treas. Reg. Section 53.4945-4(c)(5). If the student ceases to be enrolled in good standing at the educational institution and the institution has not applied all scholarship funds for the student, the institution will be expected to notify you or B and return any unexpended funds.

B will select the scholarship applicants and will appoint a selection committee according to procedures that B uses for its scholarship programs. The selection committee will consist of staff of B. You affirm that 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 arrange to receive and review grantee reports annually and upon completion of the purpose for which the grant was awarded, investigate diversions of funds from their intended purposes, and 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.

You affirm that you comply with the seven conditions and either the percentage tests or facts and circumstances test for scholarships to attend an educational institution as set forth in Revenue Procedure 76-47, 1976-2 C.B. 670, which applies to inducement, selection committee, eligibility requirements, objective basis of selection, employment, course of study, and other objectives.

Under your program, scholarships each year may be awarded to 25% or fewer of the eligible applicants that were considered by the selection committee in selecting recipients of grants in that year as provided by Revenue Procedure 76-47. However, if it is decided that this 25% threshold is exceeded, the program in any case will comply with the "fewer than 10% test." That is, you then will award grants to 10% or fewer of the number of employees' children who can be shown to be eligible for grants (whether or not they submitted an application) in that year, as provided by Revenue Procedures 76-47 and 85-51.

A determination of total eligible applicants initially will be made using B's procedures, based on % of the total employee population in line with benchmark data from B. For

later years, the eligible population assumptions may be amended as new information is received on total eligible applicants.

### **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