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

Department of the Treasury

Date: November 10, 2020

Number: **202105014**
Release Date: 2/5/2021

Employer Identification Number:

Contact person - ID number:

Contact telephone number:

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LEGEND

UIL: 4945.04-04

B = Employer
C = Name
x dollars= Amount
y 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.

The purpose of your scholarship program is to provide scholarships to family members , of B active full-time employees. Specifically, you will award scholarships for full-time under graduate study at an accredited two- or four-year college, university or vocational/technical school of the student's choice. Furthermore. you will annually grant up to two scholarships for x dollars and up to eight awards for y dollars.

Additionally, your scholarship program will be administered by C. C is exempt from federal income tax under IRC Section 501(c)(3) and has been classified as a publicly supported organization.

To promote the scholarship program, you will conduct a robust solicitation campaign in order to maximize the number of eligible applicants for the program. Particularly, you will publicize the availability of the scholarships as well as provide other pertinent information on the B internal website, the B internal TV monitors, and special email announcements and blasts to initiate the process each year.

In order to be eligible to receive an initial scholarship, an applicant must be a family member of a B active, full-time employee. Family members are defined to include dependents for income tax purposes, i.e., children and stepchildren, whose parent has a minimum of one (year employment with B as of the application deadline date and remains employed until the grants are awarded. Moreover, in order to be eligible, the applicant must be a high school senior or high school graduate who plans to enroll, or who is already enrolled in a full-time undergraduate course of study at an accredited two- or four-year college, university, or vocational/technical school. Children or stepchildren of the officers of B are not eligible to participate in your program.

To apply for a scholarship, eligible applicants must submit the application form, with required information as well as attachments by a specific due date. Required information may include grade transcripts, description of leadership experience, work history and community service experience. Applicants must also provide a statement of career and educational goals and objectives, and a statement describing any unusual personal or family circumstances.

All complete applications will be reviewed by a selection committee comprised of individuals from C. The selection committee members will analyze application materials such as the applicant's high school academic record, their demonstrated leadership potential and accomplishments, their participation in school and community activities, and their work experience as well as their statement describing their career and educational goals and objectives, and their statement explaining any unusual personal or family circumstances, to choose the recipients.

Scholarship checks are mailed to each recipient's home address and made payable to the school of the student. C is responsible for handling violations according to policies at the school and/or university.

Scholarships are renewable for up to three years or until a bachelor's degree is earned, whichever occurs first, on the basis of satisfactory academic performance and maintaining full- time enrollment status. While initially, the program is only available to family members of active employees, once a scholarship is awarded, the recipient may renew the scholarship regardless of their parent's employment status with B.

You represent that 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 represent that 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 will comply with the seven conditions as set forth in Revenue Procedure 76-47, 1976-2 C.B. 670. Particularly, the scholarships will not be used as a means of inducement to recruit employees for the company nor will a grant be terminated if the employee leaves the company. Scholarships will only be awarded to students that plan to enroll in an institution that meets the requirements of IRC Section 170(b)(1)(A)(ii). The recipient will also not be restricted in their course of study. C will supply statistical information on applications received and grants made, which will enable you to maintain the records required by Rev. Proc. 76-47, 1976-2 C.B. 670. You will ensure compliance with the percentage tests under Section 4.08 of Rev. Proc. 76-47 in that you will award grants to 25% or fewer of the eligible applicants who were actually considered by the section committee in selecting recipients of grants in that year as provided by Revenue Procedures 76-47 and 80-39.

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