

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

Department of the Treasury

Date: October 12, 2016

Employer Identification Number:

Number: **201701025**
Release Date: 1/6/2017

Contact person - ID number:

Contact telephone number:

LEGEND

UIL: 4945.04-04

X= Scholarship Program
Y= Employer
Z= Management Company
b dollars = dollar amount
c dollars = dollar 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. You have contracted with Z to manage and administer the program.

Your purpose is to provide scholarships to eligible employees and/or children of Y.

To be eligible for an award, applicants must: (a) be dependent children, age 26 and under, of full-time Y employees or employees of Y; (b) be high school seniors or graduates or current postsecondary undergraduates or graduate level students; and (c) plan to enroll in full-time or part-time undergraduate or graduate study at an accredited two-year or four-year college, university or vocational-technical school for the entire academic year.

You will use Z's recipient selection criteria, including consideration of academic performance, demonstrated leadership and participation in school and community activities, work experience, a statement of career and educational goals and objectives, unusual personal or family circumstances and an outside appraisal. Financial need will be considered. Recipients must demonstrate financial need.

Authorized annual distribution for awards will be up to b dollars. Up to ten awards of c dollars each will be granted. Up to four additional awards of c dollars may be granted if enough applications are received. Awards will be granted in proportion to the number of applications received in each group, employees and children of employees, and per IRS Revenue Procedure 76-47. If there are not enough qualified applicants in either category, awards may be allocated to the other group in order to make full distribution per IRS Revenue Procedure 76-47. Awards are not renewable; however, students may reapply to the program each year they meet eligibility requirement. Per IRS Revenue Procedure 76-47, the employment eligibility requirement does not apply to previous recipients. Awards may be used for tuition, books, supplies and fees. Y pays the awards to schools on behalf of the recipients. Awards are for undergraduate and graduate study.

You will assume responsibility for:

- (a) Specifying eligibility guidelines,
- (b) Requesting IRS approval for the program,
- (c) Approval of application materials,
- (d) Placement of application materials on your intranet or website,
- (e) Promotion of the scholarship program among the eligible group, and
- (f) Verification of recipient eligibility.

Z will assume responsibility for all other program functions including:

- (a) Management of the scholarship program according to the conditions in the program description and in full compliance with IRS Revenue Procedure 76-47,
- (b) Design and production of application materials as requested by you,
- (c) Forwarding application materials electronically to you,
- (d) Receipt, acknowledgement and processing of all application materials,
- (e) Evaluation of applications,
- (f) Selection and notification of recipients,
- (g) E-notification of nonrecipients,
- (h) Confirmation of school enrollment, and
- (i) Providing management reports to summarize program activity and results.

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 will not 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,

Jeffrey I. Cooper
Director, Exempt Organizations
Rulings and Agreements