

Internal Revenue Service

P.O. Box 2508
Cincinnati, OH 45201

Department of the Treasury

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Release Date: 5/24/2019

Employer Identification Number:

Contact person - ID number:

Date: February 25, 2019

Contact telephone number:

LEGEND

UIL: 4945.04-04

Y = Company

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. Your purpose is to create, maintain and operate a scholarship fund for the benefit of children of employees of Y and its affiliates.

The scholarship will enable children of eligible employees of Y and its affiliates to attend an accredited college, including community college, or university to support their progress toward degree attainment. You also provide grants to recipients interested in an accredited non-degree certificate program or vocational training at a community college or private career school.

You do not limit scholarships to any course of study. Eligible children who meet the eligibility criteria and timely complete the application requirements are eligible to be chosen by the scholarship committee for a scholarship grant. You were created and operate solely for the benefit of eligible children and the scholarships are not intended to be used as an inducement or recruitment device for current or prospective employees.

Your scholarship committee will determine the number of scholarship recipients and amounts. The board may reduce the number of scholarships awarded by the selection committee but may not increase the number of scholarships awarded. The board may not vary the amount of the scholarship awarded.

Your scholarships are renewable. Your determination of whether to renew a scholarship may not be based on whether the student's parent, stepparent or guardian is employed or is no longer employed by Y or any of its affiliates.

You will have an internal communications campaign within Y and its affiliates which will include memoranda, posters, and postcards sent to employees' homes about the scholarship program. Applications will be completed online.

The following criteria will be used to determine eligibility for a scholarship:

- Eligible children of an eligible employee of Y and its affiliates
- An eligible employee is defined as an active, full-time, non-union employee of Y or an affiliate for at least one year, and
- An eligible child is defined as any child who is related to an eligible employee as a son, daughter, stepchild, or foster child and has lived with the eligible employee for at least half of the year.

The selection criteria will include but are not limited to the following:

- Prior academic performance with a minimum 2.5 GPA for a high school student and 2.25 GPA for a university student
- Personal essays
- Recommendations from instructors, and
- Financial need

The scholarship committee is encouraged to emphasize the following in determining recipients to favorably impact less advantaged employees:

- First generation to attend college, university, trade or vocational school
- Environmental, cultural, educational or health barriers
- Immigrant status, and
- Overcoming adversity.

The selection committee will be appointed by your board and will have at least three members. The selection committee will be independent from you, Y, and its affiliates. You expect the selection committee to be made up of community members with specific expertise to evaluate the applicant's potential.

You represent that you will complete the following: (1) arrange to receive and review grantee reports annually and upon completion of the purpose for which the grant was awarded, (2) investigate diversion of funds from their intended purposes, and (3) take all reasonable and appropriate steps to recover the diverted funds, ensure other grant funds held by the 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 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.

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