

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

**Department of the Treasury**

Release Number: **201926019**  
Release Date: 6/28/2019  
Date: **April 1, 2019**

**Employer Identification Number:**

**Contact person - ID number:**

**Contact telephone number:**

LEGEND

UIL: 4945.04-04

X= Employer  
Y= Number

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 for the benefit of eligible and qualified children of employees of X which is a privately held company with approximately Y employees working in the United States. Your purpose is to strengthen the communities where X operates and where its employees live and work.

To be eligible for a scholarship, applicants must:

- Be age 26 or younger;
- Be a high school senior, high school graduate who currently is not enrolled in any educational program, or a college/university undergraduate student;
- Have a parent who has been employed by X for at least one year;

- Be planning to attend an accredited 4-year, 2-year, or vocational school that qualifies under Section 170(b)(1)(A)(ii) of the Internal Revenue Code.

You will use the best methods for widely publicizing the scholarship program's existence among all employees. For example, you will send company-wide emails, post relevant information on X's internal website, and display posters/written materials at X's work sites. In addition, all materials publicizing the scholarship program will make it clear you and not X are awarding the scholarships.

You will determine the value of each scholarship each year based on the amount of funds available and the other charitable programs you will be supporting for the year, using the minimum distribution requirement rules of the Internal Revenue Code as a guideline. The scholarship program will be structured to provide one-year, non-renewable educational scholarship awards.

You have not yet created the application form for the scholarship program; however, you expect to use X's in-house legal counsel and, if necessary, outside legal counsel, to create the application form. In addition, you intend to contract with an independent third-party administrator who will have an instrumental role in creating the application as well as administering and overseeing the scholarship program.

The third party administrator will also make all award decisions under the program on an objective and non-discriminatory basis by serving as the selection committee by reviewing the applications. The selection committee will determine which applicants are the most qualified based on academic performance, work experience, extracurricular activities as well as responses to essays. Financial need is not a criterion but may be taken into consideration. Preference will also be given to applicants with a focus on degrees in "STEM" (science, technology, engineering, or math), business education, food dairy science, and engineering (mechanical/electrical).

You will comply with the guidelines set forth in Rev. Proc. 76-47, 1976-2 C.B. 670, in that the number of grants awarded under the scholarship program in any year to children of employees of X will not exceed 25% of the number of employees' children who (i) are eligible to receive a scholarship; (ii) who applied for a scholarship; and (iii) who were considered by the selection committee in selecting recipients of the scholarships or 10% of the number of employees' children who can be shown to be eligible for grants whether or not the children submitted an application in that year.

Scholarships will be paid directly to the educational institutions where the students are enrolled. Further, you intend to require the award recipient provide you with a report regarding the classes taken and the grades received in the class.

You represent that you will (1) arrange to receive and review grantee reports monthly, but no less than quarterly to ensure compliance with the purpose of the grant, (2) make tuition payments or payments for housing directly to the institution when possible, (3) distribute and ensure grant funds held by the grantee are used for their intended purposes, (4) investigate any perceived diversions of funds from their intended purposes and ensure such actions do not occur in the future, and (5) receive donations from a limited number of donors who are supportive of your program and provide appropriate documentation and reporting to donors.

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