

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

Department of the Treasury

Number: **202117020**
Release Date: 4/30/2021

Date: February 2, 2021

Employer Identification Number:

Contact person - ID number:

Contact telephone number:

LEGEND

UIL: 4945.04-04

Q= Region
R= County
S= County
T= County
U= County
V= County
W= Company

Dear :

You asked for advance approval of your scholarship grant procedures under Internal Revenue Code Section 4945(g) and 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 scholarships and your 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 scholarships and 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 a scholarship program and an employer-related scholarship program.

Your general purpose is to provide funding to other charitable organizations. At your annual or more frequent meetings, you may select recipients from among various qualified institutions which are organized under IRC Section 501(c)(3) that operate to benefit the community at large. In so giving this financial aid, it is your intent and purpose to regularly participate with recipients and benefit the public at large.

The purpose of your scholarship programs is to award scholarships to individuals, consistent with your purpose and is intended to strengthen the communities in Q, including the counties of R, S, T, U and V. In addition, you will award a limited number of scholarships for the benefit of eligible and qualified children of employees of W ("Employee 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 Code as a guideline. Your scholarship programs will be structured to provide one-year educational scholarship awards. Scholarships can only be used for: (1) tuition and fees required for the enrollment or attendance of the student at a qualifying institution; (2) fees, books, supplies and equipment required for courses of instruction at such educational institution; and (3) room and board. At or close to the end of each academic year, if the recipient needs continued scholarship support to complete the degree program as planned, a new application will be required.

Scholarships will be awarded on an objective and nondiscriminatory basis. Specifically, you will not discriminate on the basis of race, color, national origin, ethnic origin, religion, creed, sexual orientation, gender, or disability.

All applicants must complete your application form and submit transcripts and other records of academic achievements and honors (including test scores, résumés and recommendations).

Applicants to your scholarship programs must be:

- High school seniors/students in their final year of upper-secondary school or graduates or current postsecondary undergraduates.
- Planning to enroll in full-time undergraduate study at an accredited two- or four-year college, university or vocational-technical school (or equivalent) for the entire upcoming academic year.

In addition, applicants for Employee Scholarships must be dependent children, age 26 and under, of regular full-time W employees as of the application deadline date. Dependent children are defined as natural and legally adopted children or stepchildren living in the employee's household or primarily supported by the employee. You will require sufficient information in your application to determine whether applicants are the dependent children of regular full-time W employees in order to ensure that Employee

Scholarships are awarded in compliance with the additional requirements and restrictions for Employee Scholarships.

Scholarship recipients will be selected on the basis of academic record, demonstrated leadership and involvement in school and community activities, academic and other honors, work experience, and statement of goals and aspirations.

Scholarships will only be awarded to recipients who attend an accredited two- or four-year college, university or vocational-technical school that qualifies under Section 170(b)(1)(A)(ii) of the Code.

Your Board of Directors will review all applications, except applications for Employee Scholarships. All applications for Employee Scholarships will be reviewed by a selection committee composed of not less than three individuals appointed by your Board of Directors which will determine the Employee Scholarship recipients. No member of the selection committee shall be a director, officer, employee (current or former) or owner of W or you or the organizer of you.

The following individuals will not be eligible to receive scholarships from you: any child or relative of an owner, director, or officer of you or W, or of a selection committee member. Furthermore, your directors and selection committee members will be obligated to disclose any personal knowledge of and relationships with any potential recipient under consideration and to refrain from participation in the award process in a circumstance where he or she would derive, directly or indirectly, a private benefit if any potential recipients are selected over others.

You will (1) arrange to receive and review reports from each scholarship recipient no less than quarterly to ensure compliance with the purpose of the scholarship, (2) make tuition payments or payments for housing directly to the institution when possible, (3) distribute and ensure scholarship funds held by the recipient 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) take reasonable steps to recover scholarship funds in the event such funds are not used for their intended purposes.

You will maintain all records related to the following: (1) the number of applicants, including the number of applicants for Employee Scholarships, (2) individual scholarships including information to evaluate recipients, (3) how the amount and purpose of each scholarship was established, and (4) how you established supervision and investigation of the scholarships described above.

Your employer-related scholarship program will satisfy the seven conditions for approval of employer-related scholarship programs and the percentage tests under Revenue Procedure 76-47 with respect to the selection and award of Employee Scholarships, as follows:

1. You will publicize the program by an announcement to all employees of W and one or more press releases. You will make announcements of the awards, and in all cases, you will be clearly identified as the grantor of Employee Scholarships. Neither you nor W will use the program to recruit or retain employees.
2. As described above, selection of Employee Scholarship recipients will be made by a selection committee consisting wholly of individuals totally independent (except for participation on this committee) and separate from you, your organizer, and W. Employee Scholarships will be awarded solely in the order recommended by the selection committee. The number of Employee Scholarships to be awarded may be reduced but may not be increased from the number recommended by the selection committee. Only the committee may vary the amounts of the Employee Scholarships awarded.
3. Employee Scholarship recipients must be children of employees who meet the minimum standards for admission to an educational institution for which the scholarships are available. No persons will be considered eligible if they would not reasonably be expected to attend such an institution, however, even if they meet such minimum standards. There shall be no minimum period of employment required.
4. As described above, selection of scholarship recipients shall be based solely upon substantial objective standards that are completely unrelated to the employment of the recipients or their parents and to W's line of business. The following standards will be used: prior academic performance, performance on tests designed to measure ability and aptitude for higher education, recommendations from instructors or other individuals not related to the potential recipients, and conclusions drawn from personal interviews as to motivation and character.
5. You shall not terminate any Employee Scholarship awarded because the recipient's parent terminates employment with W subsequent to the awarding of the scholarship regardless of the reason for such termination of employment. Recipients of Employee Scholarships who must reapply for a scholarship to continue studies for a subsequent year may not be considered ineligible for a further scholarship simply because that individual or the individual's parent is no longer employed by W. Instead, any standards for renewal will be based solely upon non-employment related factors such as maintenance of scholastic standards. Renewal may not be denied because the recipient or parent has previously terminated employment with W. At the time the scholarship is awarded or renewed, there will be no requirement, condition or suggestion, express or implied, that the recipient or parent is expected to render future employment services for you or W, or be available for such future employment, even though such future employment is at the discretion of you or W. Neither you nor W will use the scholarship program to recruit or retain employees.

6. The courses of study for which scholarships are available and awarded will not be limited to those that would be of particular benefit to W or to you.
7. The terms of the scholarships and the courses of study for which scholarships will be available will meet all other requirements of Section 117 of the Code and the regulations thereunder, and will be consistent with a disinterested purpose of enabling the recipients to obtain an education in their individual capacities solely for their personal benefit and will not include any commitments, understandings, or obligations, conditional or unconditional, suggesting that the studies are undertaken by the recipients for the benefit of W or you or have as their objective the accomplishment of any purpose of W or you other than enabling the recipients to obtain an education in their individual capacities and solely for their personal benefit.

Your employer-related scholarship program will meet the requirements of either the 25 percent or 10 percent test in Revenue Procedure 76-47 for Employee Scholarships.

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.

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