



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
P.O. Box 2508
Cincinnati, OH 45201

Date: January 11, 2022

Number: 202214017
Release Date: 4/8/2022

Taxpayer ID number:

Person to contact:

Name:

ID number:

Telephone:

LEGEND

B = Company
C = Organization
D = State
E = Scholarship Program
x dollars = Amount
y dollars = Amount
z dollars = Amount

UIL: 4945.04-04

Dear _____ :

You asked for advance approval of your employer-related scholarship procedures under Internal Revenue Code Section (IRC) 4945(g)(1). You requested approval of your scholarship program to fund the education of certain qualifying students.

This approval is required because IRC Section 4945 provides for the imposition of taxes on each taxable expenditure of a private foundation. IRC Section 4945(d)(3) provides that the term "taxable expenditure" includes any amount paid or incurred by a private foundation as a grant to an individual for travel, study, or similar purposes by the individual, unless the grant satisfies the advance approval requirement of IRC Section 4945(g).

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 IRC Section 4945(g)(1). As a result, expenditures you make under these procedures won't be taxable.

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 IRC Section 117(b)).

Description of your request

Your letter indicates you will establish and operate an individual scholarship grant program called E. The purpose of E is to provide scholarship grants to underserved, financially needy individuals, including the dependent children and grandchildren of B employees, that meet the eligibility requirements of E.

You have contracted with C to administer and manage E. C will:

- design/install/maintain a web-based application for your program,
- receive/process applications,
- review submissions,
- determine eligibility of applicants,
- select scholarship grant recipients,
- notify all applicants,
- pay awards to recipients, and
- provide customer service to students, parents, school officials, and other stakeholders.

The scholarship will not be used by you or B to recruit employees or induce employees to continue their employment.

The selection of grant recipients will be made by a committee of individuals chosen and directed solely by C. Members of the selection committee will be knowledgeable in the education field and have the background and knowledge to properly evaluate the potential of applicants. The selection committee will be totally independent and separate from you or B.

Selections of recipients will be forwarded by C's selection committee to you solely to verify the recipients' eligibility requirements and the selection criteria followed by C's selection committee in considering the applicants and in making selections.

You will annually award up to x dollars in college scholarship grants to qualified students in award increments of y dollars per student. A scholarship may be renewable for three additional years, for a total award of z dollars per student. The scholarship grants will be paid directly to the recipients. C will confirm school enrollment of recipients prior to disbursement of grant awards, both for initial grants and renewed grants.

Your scholarship program imposes minimum requirements for scholarship grant eligibility. The following requirements are placed on applicants:

- a. Be: (i) a minority self-identifying as Black or African American, American Indian or Alaska Native, Hispanic or Latino, Asian, Native Hawaiian or other Pacific Islander; (ii) veterans; (iii) disabled; or (iv) self-identifying as LGBTQ+;
- b. Be a high school (including public, charter, private, parochial, home school, or any combination of the list) senior or graduate or current undergraduate at an accredited two- or four-year college, university, or technical/trade school located in the state of D;
- c. Be a resident of D;
- d. Be a U S citizen;

- e. Have a minimum grade point average of 2.5 on a 4.0 scale or its equivalent; and
- f. Plan to be enrolled in, and/or attend, a full-time undergraduate course of study at an accredited two- or four-year post-secondary school, college or university located in the state of D.

Applicants that are dependent children and grandchildren of B employees must be the dependent children or grandchildren of active B employees (full- or part-time) as of the application deadline date. The number of new scholarship grants for children and grandchildren of B employees in any year is limited to no more than the greater of (i) scholarships, or (ii) % of the total number of dependent children and grandchildren of B employees who are eligible, are applicants for such scholarship grants, and are considered by the independent selection committee chosen and directed solely by C.

Scholarship grants are renewable up to three years or until a bachelor's degree is earned. To qualify for a renewed scholarship grant, the recipient must have satisfactory academic performance, maintaining a cumulative grade point average of 2.5 on a 4.0 scale. The recipient must maintain full-time enrollment at an accredited two- or four-year college or university located in the state of D. Renewal will not be denied because the recipient's parent or guardian had previously terminated employment with B.

The scholarship program will be publicized through a webpage managed by C, and B's social media accounts, internal webpages, and website. All applicants must complete and submit a web-based application. The completed application packages are then reviewed by the selection committee, which is appointed by C.

The selection committee will select recipients based on how the applicants demonstrate their potential for future academic performance and college completion, as well as consideration of past academic performance, the strength of their recommendation and personal statement, unusual personal or family circumstances, involvement and leadership in school and community activities, work experience, and other relevant criteria. Financial need will be considered. Recipients will be selected from a pool of qualified applicants with primary consideration given to those who demonstrate the greatest need.

You represent that you will complete the following:

- Arrange to receive and review grantee reports annually and upon completion of the purpose for which the grant was awarded,
- Investigate diversion of funds from their intended purposes,
- Take all reasonable and appropriate steps to recover the diverted funds and 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 diversion from occurring.

You also 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

Basis for our determination

IRC Section 4945 imposes excise taxes on the taxable expenditures of private foundations. 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 the following requirements of IRC 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 IRC Section 117(a).
- The grant is to be used for study at an educational organization described in IRC Section 170(b)(1)(A)(ii).

Revenue Procedure (Rev. Proc.) 76-47, 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 IRC Section 117(a). If the program satisfies the seven conditions in sections 4.01 through 4.07 of Rev. Proc. 76-47 and meets either the applicable percentage tests described in Section 4.08 of Rev. Proc. 76-47 or relevant facts and circumstances, we will assume the grants are subject to the provisions of IRC Section 117(a).

You represented that your grant program will meet the requirements of either the 25% or 10% percentage test in Rev. Proc. 76-47 (or relevant facts and circumstances). These tests require that:

- The number of grants awarded to employees' children in any year won't exceed 25% 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% of the number of employees' children who were eligible for grants (whether or not they submitted an application), or
- The relevant facts and circumstances to ensure the primary purpose of the program is not to provide extra compensation or other employment incentive and the primary purpose is to educate recipients in their individual capacities.

You represented that your procedures for awarding grants under this program will meet the requirements of Rev. Proc. 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 if your procedures comply with Sections 4.01 through 4.07 of Revenue Procedure 76-47 and either of the percentage tests of Section 4.08 (or relevant facts and circumstances). If you establish another program covering the same individuals, that program must also meet the percentage tests (or relevant facts and circumstances).
- 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 IRS at:

Internal Revenue Service
Exempt Organizations Determinations
TE/GE Stop 31A Team 105
P.O. Box 12192
Covington, KY 41012-0192

- You can't 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 IRC 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'll make this determination letter available for public inspection after deleting personally identifiable information, as required by IRC Section 6110. We've enclosed Letter 437, Notice of Intention to Disclose - Rulings, and a copy of the letter that shows our proposed deletions.

- If you disagree with our proposed deletions, follow the instructions in the Letter 437 on how to notify us.
- If you agree with our deletions, you don't need to take any further action.

Please keep a copy of this letter in your records.

If you have questions, you can contact the person shown at the top of this letter.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosures:
Letter 437