



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

Date:  
08/29/2022  
Taxpayer ID number:

Person to contact:

Release Number: 202247019

Release Date: 11/25/2022

UIL: 4945.04-04

#### LEGEND

B = scholarship  
C = county/state  
D = university  
E = number 1  
F = number 2  
G = company 1  
H = company 2  
x dollars = amount

Dear \_\_\_\_\_ :

You asked for advance approval of your scholarship procedures under Internal Revenue Code (IRC) Section 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 scholarships. Based on the information you submitted, and assuming you will conduct your program as proposed, we determined that your procedures for awarding scholarships meet the requirements of IRC Section 4945(g)(1). As a result, expenditures you make under these procedures won't be taxable.

Additionally, 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 operate a grant program called B to provide students residing in C the opportunity to compete for grants worth up to x dollars to defray the costs of tuition, books, and fees while attending D full-time. Although the actual number and amount of grants will vary based on available funds, you anticipate awarding between E and F grants annually, which are renewable up to four years.

You will publicize your grants by sending marketing materials directly to D. In addition, you will retain an external services provider, G, to coordinate with D to further publicize B, as well as manage your application process, which includes pre-screening criteria for residency, minimum grade point average, enrollment status at D, and employment status or family relationships to employees of G or your trustee, H.

After pre-qualifying, eligible applicants must submit a completed application form, personal statement or essay, official transcripts, and standardized college admission test scores, in addition to required forms for federal taxpayer identification and student authorization and acknowledgments.

Selection criteria will be based on merit and include academic achievement, college or career aspirations, and admittance or current attendance at D. Financial need is not a consideration for selection; however, the actual amount of each grant may vary based on financial need, not to exceed x dollars.

H will select your grant recipients based on student information forwarded by G. For both H and G, employees and their family members, including their spouses, ancestors, children, grandchildren, great-grandchildren and the spouses of their children, grandchildren, and great-grandchildren, are disqualified from receiving your grants, and you will revoke and attempt to recover any grants inadvertently awarded to such disqualified individuals.

At the discretion of H, G may be replaced with another similar external services provider, and, if D ever ceases to exist, H will select a substitute college or university at which your recipients must be enrolled or accepted for enrollment to receive grants.

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 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 described above.

#### **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 the provisions of 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).

**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 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

- 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