



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities

Date: 04/25/2024

Taxpayer ID number:

Person to contact:

Name:

ID number:

Telephone:

Release Number: 202429023

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UIL: 4945.04-04

LEGEND

B = City, State

C = Number

D = Number Range

E = Place

F = Number

x dollars = Dollar

Range

Dear :

You asked for advance approval of your educational grant procedures under Internal Revenue Code (IRC) Section 4945(g)(3).

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 educational grants. Based on the information you submitted, and assuming you will conduct your program as proposed, we determined that your procedures for awarding educational grants meet the requirements of IRC Section 4945(g)(3). As a result, expenditures you make under these procedures won't be taxable.

Description of your request

Your letter indicates you will operate a fellowship grant program. The purpose of your program is to support the visual and performing arts.

You intend to establish a physical location in B, in which creative works will be created and exhibited, or

performed. Examples of projects you may support include, but are not limited to, sculptural objects or installations, paintings, performances, print or photographic works, written works, art research, or a community driven art project.

You will publicize your program on your website. Through e-mail invitation, the call for nominations will be promoted to your grantee organizations, former fellowship recipients, and guest art professionals with expertise in the theme area. Each year you will identify an artistic or educational theme or topic for the fellowship program that addresses relevant and prescient issues.

Of the C nominations you expect to receive annually, you anticipate awarding between D fellowships per year. Each fellowship will have a value of between x dollars. The fellowship amount would be used to cover reasonable project expenses such as supplies, materials, equipment, and performance of third-party services. A stipend to cover all travel expenses directly related to the fellowship project will also be provided.

To be eligible for your program in any given year, the artist will need to be nominated by a grantee organization of yours, a former fellowship recipient or a guest art professional with expertise in the theme area. Each grantee organization may nominate one artist whose work responds to the theme. The artist does not need to have an official connection to any of your grantee organizations to be nominated.

Once nominated your staff will narrow the list based on the following:

- meeting all selection criteria requirements
- the event schedule of E
- the total number of expected fellowships in E that year
- the overall variety of projects in E that year
- your approved budgets

The artist will then be invited to share project proposals that include work samples, a description of the project, costs, anticipated schedule, and artists availability for travel and site visits. Your selection committee will make selections (subject to the approval of your trustees) based on the artist's contribution to the field at large, clarity of the proposal, travel schedule availability, and willingness to share the process with the public. Once selections are made you will enter into a written agreement with the artist and announce the selections. In all cases, selections will be made in an objective and non-discriminatory manner. A selection committee member will be required to recuse themselves before the selection process begins if there is a conflict of interest.

Your selection committee will have rotating members expected to include representatives of your partner organizations, and members of your staff. You will also appoint a non-contributing staff member to oversee the process and present recommendations to your trustees for final approval.

Fellowships are not renewable but may be paid in installments. Payments would be conditioned upon satisfactory progress in the project, and annual reports detailing that progress. Artists awarded a fellowship would be required to wait F years before becoming eligible again for a nomination.

In addition to the written agreement between you and the artist, your staff will meet regularly with the artist to ensure compliance with your guidelines. In the instance of a significant change to the proposed project, you will require the fellow to work with your staff to update the revised proposal and ensure that it continues to serve your charitable purpose.

You will maintain appropriate records, including all applicant information, the identity and contact information

for each fellowship recipient, the amount received by the fellow, information to ensure the recipient was not a disqualified person, and investigate any possible diversion of fellowship grant funds. If necessary, you will take all reasonable and appropriate steps to recover diverted funds and ensure other grant funds held by a grantee are used for their intended purposes. You will 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. Upon completion of the project, you will conduct a follow up interview and request a final report describing the artist's accomplishments and accounting for the funds received.

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 grants 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) and is to be used for study at an educational organization described in IRC Section 170(b)(1)(A)(ii); or
 - A prize or award subject to the provisions of IRC Section 74(b), if the recipient of the prize or award is selected from the general public; or
 - To achieve a specific objective; produce a report or similar product; or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar skill or talent of the recipient.

To receive approval of its educational grant procedures, Treasury Regulation Section 53.4945-4(c)(1) requires that a private foundation show:

- The grant procedure includes an objective and nondiscriminatory selection process.
- The grant procedure results in the recipients performing the activities the grants were intended to finance.
- The foundation plans to obtain reports to determine whether the recipients have performed the activities that the grants were intended to finance.

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
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.

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, 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