



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

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05/09/2024  
Taxpayer ID number:

Person to contact:  
ID number:

Release Number: 202431016  
Release Date: 8/2/2024

LEGEND  
W = Name

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 operate an employer related grant program for the employees of W or their dependents. The purpose of your program is to provide scholarships for qualified tuition and related expenses for enrollment in a vocational or community college or a university described in IRC Section 170(b)(1)(A)(ii). You will award scholarships for the primary purpose of furthering the recipient's education. You will not make any educational loans. The amount of each scholarship will vary based on the recipient's financial need and will not exceed the anticipated cost of the recipient's tuition, board, room, fees, books, supplies and incidental expenses for attending their chosen educational institution. The number of annual scholarships will depend on your resources and other programs. You estimate that your individual grant-making activities will only be a part of your overall charitable and educational programs. The number of scholarships you award per year will be no greater than the maximum number permitted under Revenue Procedure 76-47.

You will publicize the availability of your scholarships both directly and indirectly through employees of W, W's newsletters, publications, emails, flyers to charitable and educational organizations that provide services to youth and other worthy individuals. You may also publicize through financial aid offices of colleges and universities.

To be eligible to receive assistance, the applicant must be an employee of W or a dependent child of an employee of W who is a senior in high school, or high school graduate, or already enrolled in an accredited institution of higher learning for the entire academic year. Other than the initial qualifier, employment will not be a factor in the selection process or in determining the amount awarded to the recipient.

The recipients will be selected by an independent selection committee consisting of individuals who will:

- Be independent and separate from you and W
- Not be a former employee of either yours or W
- Have no material business or family relationship with you or W, or any applicant.

You prohibit disqualified persons which include members of the selection committee, spouses and all dependents of the members of the selection committee, and all other disqualified persons related to you or W as they will be ineligible to receive scholarships. You prohibit them from deriving any private benefit, directly or indirectly, by the selection of one or more particular grant recipients. You prohibit your donors from designating scholarship recipients.

To select recipients, the selection committee will use objective and nondiscriminatory selection criteria that are related to the scholarship purposes. The selection committee will use prior academic performance, performance on tests that measure their ability and aptitude for undergraduate or graduate work, recommendations from counselors, educators, and anyone else not related to the applicant, financial need, and any conclusions that the selection committee draws from a personal interview via telephone or in person with the applicant. They will not base their selection of applicants on race and/or gender.

Scholarships will generally be limited to one academic year, but recipients can reapply for future years. You will require recipients to meet continuing eligibility including enrollment in an eligible institution and satisfactory academic performance. Continued employment will not be a renewal condition.

You will usually make award checks payable directly to the educational institution to be applied to the recipient's account. Each institution is required to use the funds to pay the recipient's expenses. You may make payments directly to the recipient subject to supervision and investigation requirements that you have set forth.

You will supervise, investigate, and review scholarships. You will ensure that you receive a report at least once a year that has been verified by the institution where the recipient attended. This report will provide courses taken and grades received for each academic period. Upon completion of coursework you will receive a final report outlining the recipient's accomplishments regarding the scholarship and an accounting of the funds received from the scholarship.

You will investigate diverted funds if you suspect that the recipient has diverted any or all of the scholarship funds by reviewing the reports or discovering that no report was submitted to you. Your selection committee will immediately investigate the matter and withhold further payments until you receive the delinquent reports. You will take appropriate and reasonable steps to recover any diverted funds, and you will withhold future payments. You will require the recipient to provide a statement that further diversions will not occur and require the recipient to take extraordinary precautions to not let diversions happen again. You will take all appropriate

and reasonable steps including taking legal action if appropriate.

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 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 the percentage tests described in Section 4.08 of Rev. Proc. 76-47, 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. 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 number of grants awarded to employees in any year won't exceed 10% 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 Rev. Proc. 85-51, when applying the 10% test to employees' children.

In determining how many employee children are eligible for a scholarship under the 10% 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 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. 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 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

cc: