



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

Date:  
05/09/2024  
Taxpayer ID number:

Person to contact:

Release Number: 202431017  
Release Date: 8/2/2024

LEGEND

UIL: 4945.04-04

B = School Name  
C = County Name  
D = County Name  
E = County Name  
F = County Name

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 program to award four-year scholarships to eligible and qualified graduating students at B in C to continue their education at an accredited college, university, or other institution of higher learning. Scholarship recipients will be selected on an objective and nondiscriminatory basis by your board of directors, who will serve as the scholarship selection committee. Scholarship awards will be made on behalf of the recipients directly to the educational institution in which that recipient is enrolled.

The number and amount of the grants will vary year-to-year based on funding you receive, the number of applicants, and the institutions those applicants are attending. As your assets increase, you may expand the awards to other high schools located in C, D, E, or F, which would be administered similarly to those at B.

You will use the following criteria to determine which students are eligible for scholarship awards:

- Must be a graduating student from B.
- Must be accepted at a four-year accredited college, university, or institution of higher learning.
- Must enroll in the college, university, or institution of higher learning's fall semester or quarter immediately following graduation from high school.
- Must have a combined math and verbal SAT score of at least 950 or an ACT score of at least 17. If the candidate has been accepted at a college, university, or institution of higher learning that does not require the SAT or ACT, you will waive this requirement but may require an essay instead.
- Assuming B continues its 100-point grading scale, must have at least a cumulative 85 average for high school through the most recent grade period.

In addition to the foregoing eligibility requirements, you will also consider the following criteria when selecting recipients:

- Class rank.
- Grades.
- Extracurricular activities both at B and the community.
- Letters of recommendation from someone who is not a relative of the candidate, and preferably one letter from someone not connected to B.
- Financial need of the candidate. All candidates are requested to list other financial aid they have been awarded.
- The candidate's statement regarding his or her educational goals.

Scholarship recipients must meet the following conditions to maintain scholarships and qualify for renewal of the awards:

- Attendance at a four-year college or university.
- Maintain a full course load of study for each semester or quarter, as defined by the college, university, or institution of higher learning.
- Maintain a cumulative grade point average of 2.5 or better on a 4.0 point scale . If the recipient's average drops below 2.5, then the recipient will have the next semester/quarter to increase his or her cumulative grade point average to 2.5 or the scholarship or grant will be suspended without further financial assistance until the minimum, cumulative grade point average is achieved, whereupon the financial assistance will be reinstated prospectively.
- Remain in good standing at his or her college, university, or institution of higher learning at all times during the four-year award.
- The recipient will provide you with copies of his or her reports and grade transcripts at the end of each semester or quarter.

Your selection committee will request confirmation from the college, university, or institution of higher learning that the recipient is enrolled before issuing a check to the college, university, or institution of higher learning. Your selection committee will investigate jeopardized scholarships or grants. Until you hire dedicated staff to supervise the scholarships and grants (or otherwise outsource such oversight to a third-party), your

selection committee will be responsible for such supervision.

Your selection committee is comprised of your board of directors. One must be a member of the board of directors in order to serve on your selection committee. As per your Bylaws, any director who is serving on the selection committee may be removed at any time with or without cause by the affirmative vote of at least sixty-six percent of the full membership of the board of directors at any regular meeting or at any special meeting called for that purpose. Relatives of members of your selection committee, or of your officers, directors, or substantial contributors are not eligible for grants made under your program.

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  
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