



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

Date:  
12/02/2024  
Taxpayer ID number:

Person to contact:

Release Number: 202509016  
Release Date: 2/28/2025

## LEGEND

W = Number  
X = Number  
y dollars = Amount  
z percent = Number

UIL: 4945.04-04

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 an individual grant program to support the development of fine artists and their work. Roughly W individuals will be eligible but only X grants will be awarded annually, generally not to exceed y dollars. Grants will be made on a one-time basis and are not renewable.

Any fine artist who is a U.S. citizen or a permanent resident of the U.S. and is no longer a student is eligible. In addition, a grant recipient must either be an artist whose activities will make a contribution to the field, or whose funded artistic project will enhance the knowledge, or improve the talents and skills of the artist.

To promote the program, you will publicize and distribute information about the grant program using on line networking and advertising tools that target artists and art professionals. You will also ensure that the information about the grant opportunity and application is available on your website. Emerging and mid-career

artists will be targeted, especially those artists who have not received the recognition that their work deserves. To apply, artists are required to submit a proposal which generally must include several examples of their past work and an explanation on how funds will be used. Applicants must also provide a resume that shows their professional experience.

To select recipients, applications will be reviewed each year by professional advisors who are appointed by your Board of Directors. They will evaluate the application materials by reviewing previous artistic output and professional experience to assess the quality of their artwork and their artistic commitment, motivation, and potential and then make recommendations to your Board of Directors. The Board of Directors will have final authority to select grant recipients. All recipients are selected on an objective and nondiscriminatory basis. Relatives of members of the selection committee, or of your officers, directors, or substantial contributors will not be eligible for grants.

Advisors must have expertise in the fine arts and knowledge of current art making practices. Advisors are replaced annually, and one board position rotates every three years. Methods used to replace advisors include obtaining referrals from active professionals in the field, scanning past grant recipients who are no longer receiving funds but have a working knowledge of your mission, and using independent field research.

The grant funds will be disbursed directly to the grant recipient. However, you will withhold z percent of the grant until the grantee sends you a final report. Each grant recipient must agree in writing to a set of terms and conditions prior to receiving the grants. They are as follows: the grant may only be used to advance the grantee's art making activities as described in the submitted proposal; the grantee will inform you immediately of any change in their plans; any funds not used or committed for the specific purpose of the grant within the specified term must be returned to you unless otherwise authorized in writing; the grantee consents to the inclusion of their name in your printed literature and website and agrees to publicly acknowledge your support in all appropriate publicity materials related to supported artwork whenever possible; and the grantee is responsible for sending you a final report within ten months of receiving funds. The report should consist of a description of how the funds were used, documentation of work created, and a close-out budget indicating how funding was spent. You will withhold a portion of the grant until this report is received.

You will (1) arrange to receive and review grantee reports annually and upon completion of the purpose for which the grant was awarded, (2) investigate diversion of funds from their intended purposes, and (3) take all reasonable and appropriate steps to recover the diverted funds, 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 diversions from occurring.

You will maintain all records relating to individual grants including information obtained to evaluate grantees, identify if 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) 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 make 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