

**Internal Revenue Service**

**Department of the Treasury**

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Person to Contact:

Telephone Number:

Refer Reply To:

CC:DOM:IT&A:6 - PLR-101748-00

Date:

July 17, 2000

Re: Scholarship Benefits Program  
EIN: [REDACTED]

Dear Sir or Madam:

This is in response to your authorized representative's letter and submissions of December 22, 1999, in which you (Benefit Plan) requested a private letter ruling regarding the proper federal income tax treatment (including any reporting and/or withholding obligations) of certain educational benefits to be awarded to employees and children of employees of participating employers under a collectively bargained benefits plan.

The information submitted indicates that you are a multiemployer welfare trust fund established pursuant to collectively bargained agreements, provide a variety of welfare benefits to participants and beneficiaries, and have been recognized as exempt from federal income tax under section 501(c)(5) of the Internal Revenue Code (the Code). Under the Plan, you propose to award educational benefits to employees and children of employees following the guidelines outlined in Rev. Proc. 76-47, 1976-2 C.B. 670. You requested a ruling that such awards will be treated as scholarships or fellowship grants subject to the provisions of section 117(a) of the Code.

While it is the practice of the Internal Revenue Service (the Service) to answer inquiries from taxpayers as to the tax effects of their transactions whenever appropriate in the interests of sound tax administration, there are certain circumstances and situations where private letter rulings will not be issued.

Section 3.01 (4) of Rev. Proc. 2000-3, 2000-1 I.R.B. 103, at 104, provides that private letter rulings will not be issued respecting whether an employer-related scholarship or fellowship grant is excludable from the employee's gross income if there is no intermediary private foundation distributing the grants, as there was in Rev. Proc. 76-47.

Additionally, section 7.01 of Rev. Proc. 2000-1, 2000-1 I.R.B. 4, at 21, and sections 2.01 and 4.02 (1) of Rev. Proc. 2000-3, at 103 and 111, respectively, provide that the Service may decline to issue a private letter ruling because of the factual nature of the problem involved, or for other reasons.

In the instant case, we are unfortunately precluded from providing the ruling(s) you requested because: (1) there is no intermediary private foundation awarding the grants in question, as there was in Rev. Proc. 76-47; and (2) whether or not the grants in question fall outside the pattern of employment and constitute scholarship grants subject to the provisions of section 117(a) of the Code is an inherently factual matter not appropriate for resolution through the ruling process.

The federal income tax treatment of scholarships and fellowship grants is addressed in section 117 of the Code. Section 117(a) provides that gross income does not include any amount received as a qualified scholarship or fellowship grant by an individual who is a candidate for a degree at an educational organization described in section 170(b)(1)(A)(ii) (describing, generally, a school). Excludable grants are generally limited to “relatively disinterested, ‘no-strings’ educational grants, with no requirement of any substantial *quid pro quo* from the recipient.” Bingler v. Johnson, 394 U.S. 741 (1969).

Generally, amounts paid to or for the benefit of employees are presumptively compensatory in nature and, absent a statutory exclusion, ordinarily includible in gross income as wages. Where grants are made available to or for the benefit of employees on a preferential basis, the employer-employee relationship is immediately suggestive that the grants are compensatory. These suggestions are not dispelled simply because the immediate grantor is an independent third party such as a private foundation, voluntary employees’ beneficiary association, labor union or other benefits fund.

Whether a particular amount is received as a scholarship or fellowship grant is an inherently factual question to be resolved from the circumstances of each case. While a scholarship need not be formally designated as such, the mere designation of a payment as a “scholarship” or fellowship grant will not govern tax treatment. Thus, for example, the exclusion has no application to amounts designated as scholarships that in fact constitute taxable payments, distributions, or wages. Where educational grants are awarded in an employment context, they must generally be shown to fall outside the pattern of employment before an exclusion is permitted.

Section 3121(a) (20) of the Code, defining “wages,” provides, in relevant part, that the term generally means all remuneration for employment, including the value of benefits, except that such term shall not include any benefit provided to or on behalf of an employee if, at the time such benefit is provided, it is reasonable to believe that the employee will be able to exclude such benefit from income under section 117 of the Code.

Rev. Proc. 76-47 provides “safe harbor” guidelines for determining whether grants made by private foundations under employer-related scholarship programs to employees and/or children of employees will be treated as scholarships or fellowship grants subject to the provisions of section 117(a) of the Code. Private foundations awarding grants to individuals must by statute have their procedures for awarding such grants approved in advance by the Service. Accordingly, letter rulings and determination letters are ordinarily issued in such circumstances.

Although the guidelines enumerated in Rev. Proc. 76-47 are relevant in determining whether or not employer-related educational grants are compensatory in nature, the revenue procedure does not address grants awarded either directly by an employer, or by entities other than private foundations (such as grants awarded under funds established pursuant to collectively bargained agreements). Under current procedures, private letter rulings are ordinarily not issued in these situations.

We are currently studying whether the “no rule” position of section 3.01(4) of Rev. Proc. 2000-3 should be modified to permit the issuance of letter rulings in circumstances beyond those currently authorized, and hope to complete our considerations in time for the next update of the Rev. Proc. (2001-3) in January, 2001. The materials you submitted in support of your requested ruling will be considered and helpful in reaching our conclusions.

Because we are not issuing the ruling(s) you requested, the “user fee” you submitted will be refunded in a separate communication.

Pursuant to a power of attorney currently on file with this office, the ORIGINAL of this letter is being sent to your first-named authorized representative, and a copy is being sent to you.

Thank you for your attention in this matter. If additional information is needed, please contact the individual named at the beginning of this letter (not a toll-free call).

Sincerely yours,

Assistant Chief Counsel  
(Income Tax & Accounting)

/s/ William A. Jackson

By \_\_\_\_\_  
William A. Jackson  
Chief, Branch 6

Enclosure:  
Copy of this letter