

Internal Revenue Service  
P.O. Box 2508  
Cincinnati, OH 45201

Department of the Treasury  
Director, Exempt Organizations

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Release Date: 12/26/08  
Date: 9/29/08

Contact Person:

Identification Number:

Telephone Number:

Employer Identification  
Number:

Uniform Issue List Number:  
4945.04-04

Legend:

B= Trust  
C= Date  
D= College  
x= \$amount  
y= number

Dear :

This is in reference to your letter of February 6, 2008, requesting advance approval of your grant procedures under section 4945(g) of the Internal Revenue Code.

The effective date of your scholarship program for the awarding of grants is August 1, 2008. This date was chosen based on the facts that your scholarship program now complies with section 4945(g) of the Internal Revenue Code.

B was recognized by the Internal Revenue Service as a Non-Exempt Charitable Trust created by the will of C. During this time period, B was being recognized as a 509(a)(3), but based on the Pension Protection Act of 2006, they now are going to be recognized as a private foundation as of August 17, 2007, by the Internal Revenue Service. B will now be required to file the 990PF return.

Every student who attends D is eligible to apply for a scholarship from B. The Selection Committee consists of the College's Dean of Admission and a representative of the College's Financial Aid Office.

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B establishes eligibility criteria and selection criteria. This will include grade point average, field of major, other grants student is receiving, academic awards, school activities, community activities, and biographical sketch of student.

The Selection Committee will review the applications and select one male and one female student. The Selection Committee will make its selection based upon the following factors: academic achievement, financial need and character. No scholarships will be awarded to any individual who is related by blood, adoption or marriage to any member of the Selection Committee or any disqualified person of B (as defined in Code Section 4946) as a first cousin or nearer relative.

The Selection Committee shall notify B which students shall receive scholarships. In addition to the full legal names of recipients, the Selection Committee provides B with the addresses of the recipients. Each recipient shall receive a scholarship in the amount of x. B will pay the scholarship amount directly to D. B will ask D to refund any unearned portion of the scholarship if, subsequent to the payment of the scholarship, the recipient fails to meet any term or condition of the scholarship program.

Sections 4945(a) and (b) of the Code impose certain excise taxes on "taxable expenditures" made by a private foundation.

Section 4945(d)(3) of the Code provides that the term "taxable expenditure" means any amount paid or incurred by a private foundation as a grant to an individual for travel, study, or other similar purposes by such individual, unless such grant satisfies the requirements of subsection (g).

Section 4945(g) of the Code provides that section 4945(d)(3) shall not apply to individual grants awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance if it is demonstrated that:

- (1) The grant constitutes a scholarship or fellowship grant which is subject to the provisions of section 117(a) and is to be used for study at an educational organization described in section 170(b)(1)(A)(ii);
- (2) The grant constitutes a prize or award which is subject to the provisions of section 74(b), if the recipient of such prize or award is selected from the general public, or
- (3) The purpose of the grant is to achieve a specific objective, produce a report or similar product, or improve or enhance a

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literary, artistic, musical, scientific, teaching, or other similar capacity, skill, or talent of the grantee.

Section 53.4945-4(c)(1) of the Regulations provides that to secure approval, a private foundation must demonstrate that:

- (i) Its grant procedure includes an objective and nondiscriminatory selection process;
- (ii) Such procedure is reasonably calculated to result in performance by grantees of the activities that the grants are intended to finance; and
- (iii) The foundation plans to obtain reports to determine whether the grantees performed activities that the grants are intended to finance.

Based on the information submitted and assuming your award programs will be conducted as proposed with a view to provide objectivity and nondiscrimination in making the awards, we have determined that your procedures for granting the awards comply with the requirements contained in section 4945(g) of the Code and that awards granted in accordance with such procedures will not constitute "taxable expenditures" within the meaning of section 4945(d)(3).

In addition, we have determined that awards made under your procedures are excludable from the gross income of the recipients subject to the limitations provided by section 117 of the Code.

This determination is conditioned on the understanding that there will be no material change in the facts upon which it is based. It is further conditioned on the premise that no grants will be awarded to foundation managers, or members of the selection committee, or for a purpose that is inconsistent with the purpose described in section 170(c)(2)(B) of the Code.

The approval of your award program procedures herein constitutes a one-time approval of your system standards and procedures designed to result in awards which meet the requirements of section 4945(g)(1) of the Code. This determination only covers the grant programs described above. Thus, approval shall apply to subsequent award programs only as long as the standards and procedures under which they are conducted do not differ materially from those described in your request.

Any funds you distribute to individuals must be made on a true charitable basis in furtherance of the purposes for which you are organized. Therefore, you should maintain adequate records and case histories so that any or all award distributions can be substantiated upon request by the Internal Revenue Service.

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This determination is directed only to the organization that requested it. Section 6110(j)(3) of the Code provides that it may not be used or cited as a precedent.

This ruling will be made available for public inspection under section 6110 of the Code after certain deletions of identifying information are made. For details, see enclosed Notice 437, Notice of Intention to Disclose. A copy of this ruling with deletions, that we intend to make available for public inspection, is attached to Notice 437. If you disagree with our proposed deletions, you should follow the instructions in Notice 437.

You must report any future changes in your grant making procedures. Please keep a copy of this letter in your permanent records.

We have sent a copy of this letter to your representative as indicated in your power of attorney.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely,

Robert Choi  
Director of Exempt  
Organizations  
Rulings and Agreements

Enclosure: Notice 437