

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

**Department of the Treasury**

Number: **201202030**  
Release Date: 1/13/2012

**Date: October 20, 2011**

**Employer Identification Number:**

**Contact Person - ID Number:**

**Contact Telephone Number:**

UIL 4945.04-04

**Legend**

X= Company Name  
Y= Name of Scholarship Program  
y= Number of Employees

Dear :

We have considered your request for advance approval of your employer-related grant-making program under section 4945(g)(1) of the Internal Revenue Code, dated March 23, 2011.

Our records indicate that you were recognized as exempt from Federal income tax under section 501(c)(3) of the Code and that it is classified as a private foundation as defined in section 509(a).

Your letter indicates that you will operate a grant-making program called Y.

Your purpose is to receive contributions, donations, and gifts to be used exclusively for the promotion, encouragement, and support of charitable, scientific, educational, cultural, and civic purposes.

The purpose of Y is to grant scholarships to certain deserving applicants who are eligible to attend a post-graduate school at a college or university.

You indicate that applicants will be considered eligible to receive grants of scholarship under Y only if all of the following conditions are satisfied on the dates specified in each case:

1. On the date (application date) the application is delivered to the Selection Committee (Committee), a natural or adoptive parent, stepparent or legal guardian of the applicant must be a full time employee of X with one or more years of service,

but the employee may not be a member of a collective bargaining unit representing employees of X, unless X and such collective bargaining unit shall separately have agreed that applicants who are sons and daughters of such employees in such collective bargaining unit are eligible to compete for scholarships in Y. Sons and daughters of officers of X are not eligible to receive grants of scholarship under Y.

2. On the application date, the applicant must be eligible for admission to the qualifying institution to which application has been made.
3. On the registration date at the qualifying institution at which the applicant has made application, the applicant must be admitted thereto and must not have been awarded a post-graduate degree from a qualifying institution.
4. On the application date, the applicant shall not be older than thirty years, plus such number of years as he shall have spent in the military service of the United States. For the purpose of determining exceptions to the age eligibility conditions, the Committee in its discretion may accept other service involving significant personal and/or monetary sacrifice in lieu of military service to the United States.

Applicants will complete an application form that includes: (a) the applicant's personal information such as name, address, and birth date; (b) information about the parent, step-parent or guardian employed by X; (c) an explanation of the student's academic objective's and/or career goals; and (d) a description of other relevant matters the committee should consider, such as community service and other extracurricular activities. Additional supporting documentation including: (a) transcripts from the student's undergraduate institution, (b) documentation showing acceptance to a graduate program; and (c) letters of recommendation, will be requested.

Y is calculated to identify and select the most exemplary applicants based on past academic performances, extracurricular activities, performances on ability and aptitude tests, recommendations from instructors or other individuals not related to the applicant, and considering good citizenship and character. The process does not consider any particular individual or class of individuals. The recipients are selected by an independent committee and children of X's officers are not eligible. Also relatives of members of the selection committee or substantial contributors are not eligible for scholarships under Y. Currently there are approximately y employees of X, which allows for a potentially large pool of eligible applicant's.

The rules regarding selection of applicants are as follows:

1. Applicants shall be eligible irrespective of sex, race, color, religion or ethnic or national origin.
2. Selection of applicants to receive scholarships under X shall be based solely upon standards which shall be objective insofar as practicable but which, in any event, shall be completely unrelated to any position held by the applicant's parent with X. Criteria to be considered in selecting scholarship recipients shall include, but not be limited to, academic performance, extracurricular activities, performance on ability and aptitude tests, recommendations from instructors or other individuals not related to the applicant and conclusions with respect to motivation and character drawn from personal interviews.

3. It is a specific purpose of Y to enable scholarship recipients to pursue educational objectives of their own choosing and for their personal benefit without commitment or obligation to X of any kind, present or future, on the part of either the applicant or a parent, and irrespective of whether the course of study which any applicant seeks to pursue will benefit X.
4. Y may not be used to recruit employees or induce employees to continue in the employment of X, or otherwise to take or not take any action for or in respect of X.

Scholarship grants under Y may not be withdrawn, nor may any renewable grant not be renewed, for any reason relating to the employment or non-employment with X of the parent of a scholarship recipient subsequent to the application date. Also the number of scholarship recipients selected by the Committee in any year shall not exceed (a) 25 percent of the number of X employees' children who are eligible, are applicants for such scholarships and are considered by the Committee in selecting the recipients of scholarships in that year, or (b) 10 percent of the number of employees' children that can be shown to have been eligible for such scholarships (irrespective of whether they submitted applications) in that year.

The Selection Committee does not necessarily use a formal ranking procedure. The members of the selection committee review all the applicant information discuss the relative merits of the various applicants, considering the criteria noted above, and jointly select the scholarship recipients. The Selection Committee members use their experience and judgment to ensure a non-biased, objective result.

The number of new scholarships to be granted in each year shall be determined by your Trustees, and the Trustees shall inform the Committee of the number and dollar amount of each. The number and amount of grants is fixed each year by the Trustees, and the Selection Committee then makes binding recommendations for the fixed number of awardees. Grants will be awarded solely in the order recommended by the Selection Committee. Once the Trustees have determined the number and amounts of the scholarships and the Selection Committee has made its recommendations of those to whom scholarships will be given, that no one has the authority to increase the number of grants to be awarded.

Your Selection Committee shall be made up of three members who shall be chosen by your Trustees, but no one shall be a member of the Committee who shall (a) be your Trustee, (b) be a current or former director, officer, or employee of X, or (c) own more than one percent of the outstanding voting stock of X. The Committee may act by a majority of its members in attendance at a meeting duly called and noticed, and a quorum at any such meeting shall be three members. The Committee shall have full discretion, subject to the terms and conditions of the instrument establishing Y, both to establish criteria for selecting applicants for new scholarships and to establish performance standards for renewing scholarships in successive years. Such discretion shall include the right to change such criteria and standards. Your Trustees shall have the power from time to time to remove or replace the members of the Committee, or increase or decrease their number, but no scholarship awarded by the Committee shall be invalidated by such action.

The Selection Committee is composed of responsible community and business leaders who have some experience and interest in education. Each Committee member is totally independent of you and X, and is tasked with the responsibility to make

independent, unbiased decisions in the selection process. Only responsible men and women of high integrity and independence are chosen for the Selection Committee. The Committee members are approved by your Trustees, who are responsible for ensuring that the committee members act without bias in their selections.

Procedures for the confirmation of the terms and conditions of the scholarship are: (1) Applications are completed and submitted to you; (2) Applications are reviewed for eligibility and completeness and submitted to the selection committee; (3) The Selection Committee has full discretion for selecting applicants to receive the scholarship; (4) The recipients are notified of their scholarship award; and (5) a check is issued by you to the scholarship recipient.

The scholarship recipient will be required to send you a copy of his/her school transcript, after the end of each semester, to verify continued participation in a graduate school program and ensure eligibility for renewal of the scholarship. The scholarship recipient is required to send you a copy of his/her receipts for tuition, books, class fees, etc. If misuse of funds is discovered, the scholarship recipient may be asked to refund the misused scholarship award and may no longer be eligible for future awards.

Other than the verifications listed above, there is no follow-up in the event the award recipient leaves or drops out. The scholarship is not refunded to you, but the recipient is no longer eligible for future scholarships under Y.

In general, each scholarship shall be renewable in an amount not smaller than the original amount, unadjusted for inflation, in each of the two consecutive succeeding years (or until the recipient shall have received a graduate degree or otherwise achieved the educational objective specified in his original applications to the Committee, whichever shall first occur), if certain criteria are met.

You agree to maintain records that include the following:

- (i) Information used to evaluate the qualification of potential grantees;
- (ii) Identification of the grantees (including any relationship of any grantee to the private foundation);
- (iii) The amount and purpose of each grant; and
- (iv) All grantee reports and other follow-up data obtained in administering the private foundation's grant 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 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.

Revenue Procedure 76-47, 1976-2 C.B. 670, sets forth guidelines to be used in determining whether a grant made by a private foundation under an employer-related program to a child of an employee of the particular employer to which the program relates is a scholarship grant that meets the provisions of section 117(a) of the Code (as that section read before the Tax Reform Act of 1986). If a private foundation's program satisfies the seven conditions set forth in Sections 4.01 through 4.07 of Rev. Proc. 76-47 and meets the percentage test described in Section 4.08, the Service will assume the grants meet the provisions of section 117(a), as that section read before the Tax Reform Act of 1986.

You have agreed that procedures in awarding grants under your program will be in compliance with Sections 4.01 through 4.07 of Rev. Proc. 76-47 (without regard to the amendments to section 117(a) made by the Tax Reform Act of 1986). In particular, the selection of individual grant recipients will be made by a selection committee the members of which are totally independent and separate from the private foundation, the foundation's creator, and the relevant employer. The grants will not be used as a means of inducement to recruit employees nor will a grant be terminated if the employee leaves the employer. The recipient will not be restricted in a course of study that would be of particular benefit to the relevant employer or to the foundation.

Section 4.08 of Rev. Proc 76-47 provides a percentage test guideline. It states in the case of a program that awards grants to children of employees of a particular employee, the program meets the percentage test if either of the following tests are met: the number of grants awarded under that program in any year to such children do not

exceed 25 percent of the number of employees' children who were eligible, were applicants for such grants, and were considered by the selection committee in selecting the recipients of grants in that year, or the number of grants awarded under the program in any year to such children does not exceed 10 percent of the number of employees' children who can be shown to be eligible for grants (whether or not they submitted an application) in that year.

You have agreed that your program will meet the requirements of either the 25 percent or 10 percent percentage test of Section 4.08 applicable to a program that awards grants to children of employees of a particular employer. Records should be maintained to show that you meet the applicable percentage test of Section 4.08

This determination is issued with the understanding that in applying the 10 percent test applicable to employees' children set forth in Rev. Proc. 76-47, you will include as eligible only those children who meet the eligibility standards described in Rev. Proc. 85-51, 1985-2 C.B. 717.

This determination will remain in effect as long as the procedures in awarding grants under your program remain in compliance with Sections 4.01 through 4.08 of Rev. Proc. 76-47 (without regard to the amendments to section 117(a) made by the Tax Reform Act of 1986). If you enter into any other program covering the same individuals, the percentage test of Rev. Proc. 76-47 must be met in the aggregate.

Based on the information submitted and assuming your award programs will be conducted as proposed, with a view to providing 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)(1) 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 'scholarship or fellowship' grants within the meaning of section 117 of the Code, and are excludable from the gross income of the recipients subject to the limitations provided in section 117(b) of the Code, including to the extent that such grants are used for qualified tuition and related expenses within the meaning of section 117(b)(2) 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 employer-related grant-making program is a one-time approval. This determination only covers the grant programs described above. Thus, approval shall apply to subsequent grant 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 histories so that any or all grant distributions can be substantiated upon request by the Internal Revenue Service.

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

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

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

Sincerely yours,

Lois G. Lerner  
Director, Exempt Organizations

Enclosure: Notice 437  
Redacted copy of letter