

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

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Department of the Treasury

Employer Identification Number:

Contact person - ID number:

Contact telephone number:
800-829-5500

LEGEND

UIL: 4945.04-04

X= Scholarship Program
Y= Employer

z = Dollar Amount

Dear :

You asked for advance approval of your employer-related scholarship grant procedures under Internal Revenue Code section 4945(g). This approval is required because you are a private foundation that is exempt from federal income tax. You requested approval of your scholarship program to fund the education of certain qualifying students.

Our determination:

We approved your procedures for awarding employer-related scholarships. Based on the information you submitted, and assuming you will conduct your program as proposed, we determined that your procedures for awarding employer-related scholarships meet the requirements of Code section 4945(g)(1). As a result, expenditures you make under these procedures won't be taxable.

Also, 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 Code section 117(b)).

Description of your request:

Your letter indicates you will operate an employer-related scholarship program called X. The purpose of X is to provide financial assistance for post-secondary education to children of Y employees.

The scholarship awards will be z dollars per year. Scholarship recipients are selected based on financial need and academic merit. The applicant's promise and potential for scholarship and academic achievement will also be considered.

In order to be eligible, applicants must meet the following criteria:

- a. Must be the son, daughter, or stepchild of a full-time employee of Y, with a minimum of one year of employment. A child for whom an employee of Y has legal guardianship is also eligible. Employees of Y and spouses of employees of Y are not eligible.
- b. Applicants must be entering or continuing at a post high school educational institution as a full-time student. Vocational or technical school, junior college, four-year program, or graduate schools are eligible.
- c. Recipients of past scholarship awards are eligible to apply again.

Your officers, directors, contributors and family members defined under section 4946(1)(D) of the Code are not eligible for X.

The selection committee is independent and separate from you and Y. Selection committee members are recruited and selected from the community. Selections are made by the selection committee. The number of grants awarded will not exceed 25% of the number of employees' children who (i) are eligible, (ii) are applicants for such grants, and (iii) are considered by the selection committee. Five alternates are also selected in the event that a recipient is unable to meet the criteria.

All applicants will be notified by mail of their selection status once the selection committee has made their decisions. Once a scholarship has been awarded, it will not be terminated because the recipient's parent no longer works for Y, regardless of the reason for terminating employment. The letter to scholarship recipients will inform them of their award and their responsibilities.

X will not be used to recruit employees or to induce employees to continue their employment with Y or otherwise follow a course of action sought by you. The courses of study for which the grants are available will not be limited to those that would be of a particular benefit to Y. Terms of the grants and courses of study for which the grants are available will enable recipients to obtain education solely for their personal benefit. Scholarship terms and courses of study do not include any commitments, undertakings, or obligations, conditional or unconditional, suggesting that recipients undertake the studies for the benefit of Y, or that the objective is to accomplish the purpose of Y.

You will retain all records used to evaluate the potential recipients and retain records regarding the recipients to whom the scholarships are ultimately given. Recipients must

acknowledge that they will adhere to the conditions of the scholarship agreement, and submit transcripts at the end of each semester. Each grantee is required to provide documentation verifying his/her enrollment when the scholarship is awarded. Each grantee is also required to provide a transcript at the end of each semester and all non-respondents are contacted to ensue their continued enrollment. If a recipient has not completed these requirements, you will take action to recover the funds.

Basis for our determination:

The law imposes certain excise taxes on the taxable expenditures of private foundations (Code section 4945). 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 of the following requirements of Code 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 Code section 117(a).
- The grant is to be used for study at an educational organization described in Code section 170(b)(1)(A)(ii).

Revenue Procedure 76-47, 1976-2 C.B. 670, provides guidelines to determine whether grants a private foundation makes under an employer-related program to employees or children of employees are scholarship or fellowship grants subject to the provisions of Code section 117(a). If the program satisfies the seven conditions in sections 4.01 through 4.07 of Revenue Procedure 76-47 and meets the applicable percentage tests described in section 4.08 of Revenue Procedure 76-47, we will assume the grants are subject to the provisions of Code section 117(a).

You represented that your grant program will meet the requirements of either the 25 percent or 10 percent percentage test in Revenue Procedure 76-47. These tests require that:

- The number of grants awarded to employees' children in any year won't exceed 25 percent of the number of employees' children who were eligible for grants, were applicants for grants, and were considered by the selection committee for grants, or
- The number of grants awarded to employees' children in any year won't exceed 10 percent of the number of employees' children who were eligible for grants (whether or not they submitted an application), or
- The number of grants awarded to employees in any year won't exceed 10 percent of the number of employees who were eligible for grants, were applicants for grants, and were considered by the selection committee for grants.

You further represented that you will include only children who meet the eligibility standards described in Revenue Procedure 85-51, 1985-2 C.B. 717, when applying the 10 percent test applicable to employees' children.

In determining how many employee children are eligible for a scholarship under the 10 percent test, a private foundation may include only those children who submit a written statement or who meet the foundation's eligibility requirements. They must also satisfy certain enrollment conditions.

You represented that your procedures for awarding grants under this program will meet the requirements of Revenue Procedure 76-47. In particular:

- An independent selection committee whose members are separate from you, your creator, and the employer will select individual grant recipients.
- You will not use grants to recruit employees nor will you end a grant if the employee leaves the employer.
- You will not limit the recipient to a course of study that would particularly benefit you or the employer.

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 is in effect as long as your procedures comply with sections 4.01 through 4.07 of Revenue Procedure 76-47 and with either of the percentage tests of section 4.08. If you establish another program covering the same individuals, that program must also meet the percentage test.
- 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 Cincinnati Office of Exempt Organizations at::

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

- You cannot 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 Code 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 have sent a copy of this letter to your representatives as indicated in your power of attorney. Please keep a copy of this letter in your records.

If you have questions, please contact the person listed at the top of this letter.

Sincerely,

Holly O. Paz
Director, Exempt Organizations
Rulings and Agreements

Enclosure: Notice 437
Redacted Letter