

**Internal Revenue Service**

P.O. Box 2508  
Cincinnati, OH 45201

**Department of the Treasury**

Number: **201508018**  
Release Date: 2/20/2015

**Employer Identification Number:**

**Contact person - ID number:**

**Contact telephone number:**

**Date:** November 25, 2014

**LEGEND**

C = country  
D = country  
E = country  
X= program 1  
Y= bank  
Z= program 2

**UIL:**

4945.04-04

Dear :

You asked for advance approval of your employer-related scholarship 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 will not 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**

You will operate an employer-related scholarship program called X to provide scholarships to defray the cost of attendance for recipients at an educational institution.

You will publicize the program in announcements to Y employees on the Y intranet, in newsletters, and email blasts. Such announcements will provide information on the availability of grants, solicit applicants, provide information about the application process, and announce the names of recipients. All communications will identify you as the grantor

of the awards. You have not yet finalized your application for X, but you anticipate that the application will be substantially similar to the application you currently use for your Z.

Each applicant must satisfy minimum eligibility requirements for scholarship consideration. The applicant must be the child of a current officer or employee of Y with at least three years of service or a former officer or employee of Y who died while so employed, regardless of length of service. Notwithstanding the foregoing, if a grant is awarded for one academic year and the recipient reapplies for a grant to continue studies for a subsequent year, the recipient shall not be considered ineligible for a further grant based on the parent's employment status with Y. If an awarded grant is for a period of more than one academic year, subject to renewal, renewal shall not be denied solely on the recipient's parent's employment status with Y. The applicant must also:

- Be a full time undergraduate or graduate student at an accredited college or university, located in the US, C, D or E, and that maintains a regular faculty and curriculum
- Provide your committee with a copy of a letter of acceptance from such an institution at which the applicant intends to matriculate as a full-time student with respect to an upcoming academic semester or year
- Complete, sign, and return to the secretary of your selection committee an application, together with all supporting reports, transcripts, or other documentation specified on the application, by the established deadline
- Be unrelated to any current member of your selection committee and shall not otherwise be a "disqualified person" (with respect to you), as defined by section 4946(a) (1)

If an applicant cannot be expected (reasonably) to attend the required educational institution, you will not consider their eligibility, even if he or she satisfies the minimum eligibility requirements at the time of application. Furthermore, you will not base eligibility on any other employment-related factors, such as the Y employee-parent's position, services, or duties, except to the extent, if any, that such services or duties with respect to you may affect the applicant's status as a disqualified person.

The selection of recipients shall be based solely upon such objective criteria as may be established from time to time by the your board, provided that all such criteria shall be completely unrelated to the employment of the recipient's parent or parents to Y or any Y lines of business. Such criteria shall include, but not be limited to, the following:

- Prior academic performance, as reflected on a transcript of the applicant's grades for the preceding academic year (or such other period specified) or by the receipt of academic awards or prizes
- Performance on tests designed to measure ability and aptitude for higher education
- Written recommendations from instructors or other individuals not related to the applicant

- Financial need, as evidenced by a student financial aid report, a proposed budget showing both educational expenses and all sources of income, and the family circumstances of the applicant (e.g., number of siblings then enrolled or expected to be enrolled at an accredited college or university during the forthcoming academic year)
- Conclusions drawn from personal interviews, personal essays written by the applicant, or other sources regarding the applicant's motivation, character, and potential, as evidenced by the applicant's career plans and goals, extracurricular activities, community service or involvement, ability to overcome personal or family adversity, and similar factors

Solely in those instances where your committee has identified two or more potential recipients of a scholarship who are, in your committee's opinion, equally qualified in light of all the relevant selection criteria, awards are given in the following descending order of preference:

- An applicant who is the child of a Y officer or employee who died while acting in the course of his or her employment
- An applicant who is the child of a Y officer or employee who died while employed by Y
- Applicant who has previously did not receive a Program grant

You will provide your committee with an annual budget for scholarships and an estimated number of scholarships, based on your current assets and income. You will make awards in the order recommended by your committee. The number of grants awarded may be reduced by your board, but may not be increased from the number recommended by your committee. Only your committee may vary the amounts of the grants awarded. In addition, your committee may select a recipient for a one-year award or for a scholarship to cover multiple academic years.

You will pay scholarships directly to the educational institution of the recipient. You will require the educational institution receiving the scholarship to agree in writing to use funds for educational purposes on behalf of the recipient. Further, the educational institution shall agree in writing that in the event the recipient fails to satisfy the criteria contained in the preceding sentence with respect to enrollment and standing, the institution will return to you any portion of the grant not yet expended on behalf of or paid to the recipient by the institution.

If you award a scholarship for a period of more than one academic year, the recipient must remain in good academic standing to receive funds for a subsequent academic year, and your committee may require the grantee to maintain a minimum grade point average specified at the time of the grant award.

Your committee is composed of not fewer than three and not more than five individuals selected annually by, and serving at the pleasure of your board. At least two members of your committee shall be individuals knowledgeable in the field of education.

No member of your committee may be one of your current or former officers or directors. A committee member may not be a current or former officer, employee, or director of Y or any other person who may have such a substantial personal or financial connection with you or Y as would reasonably call into question the ability of that person to make independent, objective, and nondiscriminatory decisions relating to the selection of scholarship recipients.

X is designed to provide grants to the children of current or former employees of Y; X shall also satisfy the requirements of Revenue Procedure 76-47 as follows:

- You or Y will not use the program as an inducement to recruit employees or to induce employees to continue their employment with Y or otherwise follow a course of action sought by Y.
- You will use a selection committee consisting wholly of individuals totally independent (except for participation on the committee) and separate from you and Y. At least two of the committee's members must be individuals knowledgeable in the education field, ensuring that the committee will have the background and knowledge when evaluating the potential of the applicants. You will announce the awards to the public and awarded in the order recommended by the committee.
- You will impose identifiable minimum requirements for grant eligibility that are related to the purpose of X and limits your committee's consideration to those applicants who meet the minimum standards for admission to an educational institution described.
- You will satisfy one of the two alternative percentage tests as required by Revenue Procedure 76-47. You will have Y employees who may have children eligible complete an annual questionnaire used in determining the number of scholarships.

#### **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 will not 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 do not 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.

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,

Director, Exempt Organizations

Enclosures:  
Notice 437  
Redacted letter