

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

**Department of the Treasury**

Release Number: **201509051**  
Release Date: **2/27/2015**  
Date: **12/1/2014**

**Employer Identification Number:**

**Contact person - ID number:**

**Contact telephone number:**

**LEGEND**

UIL: 4945.04-04

X= program name  
Y= company name  
q dollars= dollar amount  
v dollars= dollar amount  
z = number

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 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.

Your purpose is to award scholarship grants to employees, children of employees, and grandchildren of employees of Y. The purpose of X is to provide scholarships to deserving dependent children of Y employees that will enable such individuals to commence or continue their studies at educational institutions.

To qualify for X, applicants must be dependent children (e.g., claimed by employee on federal tax return) of active regular full time Y employees with two years of continuous

service as of the application date. The applicant's annual household income (as shown on federal tax returns) must be q dollars or less. You will not consider any other aspect of the employment relationship in selecting recipients from among the eligible applicants, except as specified in your guidelines and procedures. Individuals serving as an officer or director of Y or as your officer or director, and all family members of any such person, are not eligible to apply for or receive a scholarship.

At a minimum, your applicants must either be enrolled in an accredited institution offering continuing education beyond high school (i.e., college or junior college), or have been admitted to such an accredited institution. The Y employee and the applicant must acknowledge and sign the application form. Your officers and secretary, and their designees, shall review applications to determine if applicants are eligible and have otherwise met the eligibility requirements.

You will award grants of v dollars per semester. You will award a maximum of z number of semester grants to any one recipient. You will make the first semester grant to the designated institution upon recipient's showing of proof of admission to an accredited institution. Your grants are renewable on a semester basis, upon a showing by the recipient of continued eligibility and good standing. Your scholarship recipient will lose his or her eligibility for continuing grants if he or she drops out, is expelled, or otherwise fails to maintain his/her good standing at an accredited institution.

Your scholarships shall not include any commitments, understandings, or obligations - conditional or unconditional - suggesting that the studies are undertaken by the scholarship recipients for the benefit of Y or your organization. The scholarships do not have as their objective the accomplishment of any purpose of Y or your organization other than to enable recipients to obtain an education in their individual capacities solely for their own personal benefit.

You will select the grant recipients from qualified applicants on an objective and nondiscriminatory basis, regardless of the race, creed, color, age, religion or sex of the applicant. Recipients will be selected based on several factors including academic achievement, financial need and personal achievement.

Scholarship proceeds generally shall be paid directly to the educational institution for enabling the student to pursue his or her studies at such institution, except as recommended by your selection committee. Scholarship proceeds may generally be used only for tuition, fees, books and other costs of attending classes, lectures and other educational programs conducted by the educational institution. Use of scholarship funds for other purposes may result in a loss of continued eligibility. However, under appropriate circumstances and upon the recommendation of the selection committee, use of scholarship proceeds are permitted for living expenses, expenses for room and board during the individual's attendance, travel costs, and other costs of the educational experience.

You or Y may not use scholarship program to recruit employees, to induce employees to continue their employment, or induce employees to follow a course of action sought for the benefit of Y or your organization.

Y may use a company newsletter, email, or web site, distributed to all employees of Y, to provide information to employees regarding the availability of the scholarship program, to solicit applicants, and to announce the names of scholarship grant recipients. Any such communications, however, must clearly state that the scholarships are provided by your organization. Y will not make any public or internal announcements concerning the selection of scholarship recipients.

Your selection committee shall arrange to obtain annual reports of the courses taken by the recipient and the grades received for the academic period covered by the scholarship from the educational institution at which the grant recipient is studying. In the case of a grant recipient whose course of study involves the preparation of research papers or projects, rather than coursework, a brief report on the resulting project or paper shall be obtained. The appropriate faculty member or other official of the educational institution shall approve the report. Your selection committee shall also arrange to obtain a final report upon the completion of the recipient's study at the educational institution. Your selection committee shall review all such reports at least once a year.

If the use of the scholarship proceeds is not being used in furtherance of the required educational purposes, your selection committee shall make appropriate investigation into the matter. You will not renew the grant until you determine that the recipient has not used the grant proceeds for improper purposes. If you determine that the grant proceeds have been used for improper purposes, you will not make any further grants to the recipient (regardless of whether the impropriety is corrected) and your selection committee shall take all necessary and appropriate action to obtain repayment of the scholarship proceeds which have been misused or misapplied.

Your board of directors shall maintain and retain the following records and files:

- All information your foundation obtains to evaluate the qualifications of all applicants for grants under X
- Identification of grant recipients
- Specifics regarding the amount and purpose of each such grant
- All information pertaining to supervision of the recipient

You will satisfy either the 10 percent test or the 25 percent test as permitted under Revenue Procedure 76-47.

#### **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