

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

Department of the Treasury

Number: **201604020**
Release Date: 1/22/2016

Employer Identification Number:

Contact person - ID number:

Contact telephone number:

Date: October 28, 2015

LEGEND

UIL: 4945.04-04

B= Scholarship Program
C= Related Employer
x= number
y dollars= Dollar Amount

Dear _____ :

You received advance approval for your grant making programs on March 4, 2005; under these programs, you operated an employee scholarship program and a community scholarship program. You are revising your employee scholarship grant-making program and are now requesting advance approval of your revised grant making procedures. This approval is required because you are a private foundation that is exempt from federal income tax.

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 operate an employer-related scholarship program called B.

You will be awarding up to x annual scholarship grants to dependent children of current full-time employees of C. Each grant will be in the range of y dollars and is not renewable. The scholarship must be used by the recipient at a post-secondary education at either a two-year or four-year institution of higher learning described in Section 170(b)(1)(A)(ii) of the Internal Revenue Code of 1986, as amended (the "Code").

Furthermore, the award must be used only for tuition, fees, books and supplies required for courses of instruction.

Recipients are free to pursue any course of study at a qualified educational institution. There is no commitment, understanding or obligation, conditional or unconditional, suggesting that the course of study undertaken by the grant recipient is for the benefit of C. A scholarship grant is made for the exclusive purpose of assisting the recipient in obtaining an education solely for the recipient's personal benefit. There is no express or implied obligation that a scholarship recipient renders any future employment services to you or C. Once awarded the scholarship will not be revoked due to termination of an employee of C regardless of the reason for termination.

To be eligible for a scholarship grant, a recipient must be a dependent child of a full-time employee of C. A full time employee is any employee who has completed one year of service at the time his or her dependent child files an application for a grant and works a minimum of 40 hours per week. The grants are made available to children of all full-time employees without regard to the employee's position, services or duties.

You will provide information about B to the employees of C by direct mailings, company newsletters, bulletin boards and meetings at the work locations of C. Dependents of eligible employees will be invited to submit applications, which are available from C's Human Resource Department.

You will rank the applicants who have demonstrated academic achievement and extracurricular participation and leadership as follows:

- a) GPA on a 4.0 scale.
- b) Work Experience while attending school.
- c) Community volunteer activities.
- d) Extracurricular activities.

You will apply a ranking formula with the most emphasis placed on GPA and then present the ranked list to your board without the need for a separate scholarship committee. You will award the scholarships solely based on the rankings with no variation. No subjective criteria will be used and there are no limitations or restrictions in the selection process based upon race, creed, color, religion, national heritage, geographical residence or employment location, or the employment position of the employee.

Your officers, employees and directors may not derive, either directly or indirectly, any personal benefit from grants awarded by you. Accordingly, scholarship aid shall not be given to an applicant who is a disqualified person with respect to you as defined in Section 4946 of the Internal Revenue Code.

The awards will be granted for the fall semester and will be made payable jointly to the recipient and the educational institution. The educational institution will be required to

acknowledge, in writing, that the scholarship award can be used only for tuition, fees, books or supplies and must be attested to by an appropriate official of the educational institution. Additionally, within one semester of the use of the scholarship funds, all scholarship recipients will be required to account to you and describe the manner in which the grant was expended. Upon reviewing the acknowledgements of the educational institutions and the accountings, you will seek recovery of any misused funds if there are variances from the intended usage. Any recovered monies will be utilized for future scholarship grants.

Although you expect to make x scholarship grants each year, the grants in any year will not exceed 25% of the number of eligible children of employees of C who were (i) eligible, (ii) applicants for such grants, and (iii) considered, or 10% of the number of eligible children of employees of C who can be shown to be eligible for grants (whether or not they submitted an application) in that year.

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.

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,

Jeffrey I. Cooper
Director, Exempt Organizations
Rulings and Agreements