

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

**Department of the Treasury**

Number: **201608019**  
Release Date: 2/19/2016

**Employer Identification Number:**

**Contact person - ID number:**

**Contact telephone number:**

**Date: November 24, 2015**

LEGEND

UIL: 4945.04-04

B= Program Name  
C= Employer Name  
d= Number  
e dollars= 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 operate an employer-related scholarship program called B for employees of C. The only purpose of B is to assist grant recipients in completing an educational program, solely for the recipients' own personal benefit. Neither you nor C will use B for the purposes of recruiting employees to C, inducing employees to remain with C, or otherwise inducing employees to engage in conduct desirable to C.

You will be awarding approximately *d* annual scholarship grants for *e* dollars each to dependent children of current full-time employees of C. Scholarships are to be used for any course of study at an educational institution described in Section 170(b)(1)(A)(ii) that leads to a terminal degree, certification, or other professionally recognized credential, without any limitation to courses of study that provide any particular benefit to you or C. In addition, scholarships must be used only for tuition, fees, books, board, and room expenses at educational organizations described Section 170(b)(1)(A)(ii).

To be eligible applicants must:

- 1) Be dependent children of C's employees who have served with C for at least three years;
- 2) Not be disqualified persons, as defined in Section 4946(a), with respect to you; disqualified persons, as defined in Section 4958(f), with respect to the organization selecting the grant recipients; or immediate family of members of the selection committee;
- 3) Be high school graduates, or in some other manner establish eligibility for a course of study or training at a college, university, or post-secondary vocational school;
- 4) Be pursuing, or plan to pursue, a program that leads to a terminal degree, certification, or other professionally-recognized credential; and
- 5) Carry, or plan to carry, a full-time course load sufficient to allow maximum eligibility for scholarship assistance from other governmental and private sources.

Furthermore, eligibility will not be limited based on the rank or level of compensation, which the applicant's parent has at C, or any other criterion relating to the employment of the applicant's parent at C other than the three-year minimum employment period.

Applicants are required to submit to you a detailed application with supporting documentation. You will then turn over all applications from applicants meeting the eligibility requirements to the selection committee, which will be another nonprofit organization independent of you and C. Current or former directors, officers, or employees of you or C will not be permitted to serve on the selection committee. Furthermore, the members of the selection committee will not be in any position to derive private benefit from the selection of certain potential grantees over others, because they are fully independent of you or C and because their family members are not eligible for scholarship grants.

The selection committee will evaluate applications based on the character qualities of the applicant, as shown by the applicant's academic history and application materials, and the committee's view of the applicant's likelihood of academic success. The selection process will not discriminate among applicants based on race, religion, national origin, gender, sexual orientation, or veteran status. The members of the selection committee will make selections based only on the eligibility criteria, and not based on any criteria related to the employment of the recipients' parents or C's line of business.

You will make grants in the order recommended by the committee, and will not make more grants than awarded by the committee or vary the amounts awarded by the committee. You, not C, will make the announcement of the grant awards.

You expect to renew scholarship grants throughout the recipient's course of study, for a maximum of four years. Renewal of scholarship grants will be contingent upon the recipient's continued eligibility for, and enrollment in, the course of study for which the scholarship grant was awarded and on the recipient's meeting all of the reporting requirements. Renewal will not be contingent on the continued employment of the recipient's parent with C, or on any services to be provided to C in the future by the recipient's parent.

Grantees will be required to provide a transcript from the educational institution where they are enrolled, showing their courses taken and grades received after the end of each academic period covered by the scholarship grant. If the scholarship grant is for a course of study that does not involve taking courses or receiving grades, you will require a report on the progress of the course of study after each academic period. Together with the transcript or report, you will also require a budget for the following academic period, unless the academic period being reported is the final academic period covered by the grant.

You plan to award employer-related grants to fewer than 25 percent of applicants who are eligible, have applied, and have been considered by the selection committee. If you determine that by following your standard procedures you would award grants to more than 25 percent of such applicants, you will award fewer grants, to ensure that you are awarding grants to fewer than 25 percent of such applicants, while continuing to make awards to grantees in the order established by the selection committee.

#### **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've sent a copy of this letter to your representative 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,

Jeffrey I. Cooper  
Director, Exempt Organizations  
Rulings and Agreements