

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

**Department of the Treasury**

Release Number: **201635009**  
Release Date: 8/26/2016  
Date: **6/2/2016**

**Employer Identification Number:**

**Contact person - ID number:**

**Contact telephone number:**

**LEGEND**

X= Scholarship program  
Y= County, State  
b dollars = Amount  
c dollars = Amount

UIL: 4945.04-04

Dear

You asked for advance approval of your 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 scholarships. Based on the information you submitted, and assuming you will conduct your program as proposed, we determined that your procedures for awarding 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 provide in Code section 117(b)).

**Description of your request**

Your letter indicates you will operate a scholarship program called X.

You previously sought and received advance approval of your scholarship program, but you are now modifying your program and are again seeking advance approval.

The purpose of X is to award scholarships to residents of Y to be used for tuition to study at a tax-exempt (private or public) post-secondary educational institution. There is no geographic limitation on the college, university, or other school that a recipient may

attend. The scholarship awards may also be used for other qualified scholarship expenses, such as books, equipment and fees. There is no set amount for the scholarship awards, but the awards typically range from b dollars to c dollars.

You publicize your scholarship award program by annually notifying all the superintendents of the school districts in the county of the availability of the scholarships. In addition, you publicize the availability of the scholarship on your website and by newspaper.

Your have a scholarship selection committee. Your Board of Directors selects the members of the committee from the community. The scholarship committee, at all times, has at least three members. Relatives of selection committee members are not eligible for your scholarship awards.

Eligibility for X is determined by the following:

- Applicant must be a resident of Y and accepted by an exempt educational institution of postsecondary education.
- Applicant must not be one of your current or former directors, or a spouse, lineal descendant, or spouse of a lineal descendant of any current or former director.
- Applicant must not be a current or former member of the scholarship committee, or a spouse, lineal descendant, or spouse of a lineal descendant of a member of the scholarship committee.

When selecting recipients, the scholarship committee considers prior academic record, prior academic achievement, recommendations, financial need, motivation and character, as determined from an interview and/or narrative included with the application.

Each year, you request that the scholarship committee grant awards of up to a certain amount in total to the scholarship recipients. The individual scholarship awards are not a set amount and there are not a set number of scholarships awarded each year. Instead the committee has discretion to vary the amount of the scholarship awards among the various scholarship recipients.

Scholarship awards are for one year only. There is no restriction placed on an applicant or scholarship grantee as to his or her course of study. The only restrictions placed on the educational institution attended by a scholarship recipient is that the institution is one that normally maintains a regular faculty and curriculum, normally has a regularly enrolled body of students in attendance at the place where its educational activities are regularly carried on, and is tax-exempt pursuant to the federal tax law.

Scholarship awards are designated for the entire school year and the scholarship awards are divided into two terms. One-half of the award is paid for the fall term; and, if the recipient qualifies academically, a like amount is paid for the spring term. To qualify for the spring term, a transcript of a student's first term grades and an invoice for the spring

semester must be submitted to you. The transcript is then reviewed and you determine the student's eligibility for a second term award.

Scholarship awards are provided directly to educational institutions on behalf of the scholarship recipients to ensure they are applied to tuition and other qualifying scholarship expenses only. Scholarship recipients must reapply to receive a scholarship for subsequent years of study.

You attest that you maintain case histories showing recipients of your scholarships, fellowships, educational loans, or other educational grants, including names, addresses, purposes of awards, amount of each grant, manner of selection, and relationship (if any) to officers, trustees, or donors of funds to you.

You attest that relatives of members of the selection committee, or of your officers, directors, or substantial contributors are not eligible for awards made under your program.

You attest that you will (1) arrange to receive and review grantee reports annually and upon completion of the purpose for which the grant was awarded, (2) investigate diversions of funds from their intended purposes, and (3) take all reasonable and appropriate steps to recover diverted funds, ensure other grant funds held by a grantee are used for their intended purposes, and withhold further payments to grantees until you obtain grantees' assurances that future diversions will not occur and that grantees will take extraordinary precautions to prevent future diversions from occurring.

You also attest that you will maintain all records relating to individual grants, including information obtained to evaluate grantees, identify whether a grantee is a disqualified person, establish the amount and purpose of each grant, and establish that you undertook the supervision and investigation of grants.

#### **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 the provisions of 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).

**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 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