

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

Department of the Treasury

Release Number: **201702045**
Release Date: 1/13/2017
Date: October 21, 2016

Employer Identification Number:

Contact person - ID number:

Contact telephone number:

LEGEND:

R = scholarship
S = company
v dollars = salary
W = foundation
X = individual
Y = individual
z = number

UIL:

4945.04-04

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

You will operate an employer-related scholarship program called R to support the pursuit of undergraduate degrees by children of employees of S.

Each year your selection committee will award between 20 and 30 scholarships, depending on the availability of funds. All scholarships will be for the same amount, established from year to year based on the availability of funds. R is publicized via notifications and materials that are distributed and made available to all S employees.

To be eligible to receive a scholarship, an applicant must be the child, step-child, or adopted child of a qualified employee of S. An individual is a "qualified employee" of S if S has employed them for at least two years and their annual income from S does not exceed v dollars. Applicants must be full-time students with a minimum cumulative grade point average of 3.0.

Applicants must demonstrate, in an age appropriate manner, qualities of good citizenship, leadership, and community service. Applicants also must provide a short personal essay. Other factors that considered by the committee include the applicant's prior academic honors; financial need; extracurricular activities; and written recommendations from teachers, administrators, and/or community leaders. Selections made are based on demonstrated past academic achievement and the promise of future academic success.

Your committee will weigh all of the information and data submitted by each applicant. You evaluate and select applicants based on the quality of their responses to, and/or the satisfaction of, the eligibility criteria stated above. All committee determinations of scholarship recipients are recorded in writing. There is no requirement that scholarship recipients pursue any particular areas of study, nor is there any requirement or expectation that scholarship recipients commit to work for, or render services to or for the benefit of, S.

The terms and conditions of the scholarship will be contained in a grant letter sent to each recipient. The recipient will be required to communicate his or her acceptance of the scholarship, as well as agreement to the attendant terms and conditions, by way of a written acceptance letter to the committee. The terms and conditions of each scholarship will include the amount of the award; the name of the school to be attended by the scholarship recipient; the requirement to maintain a grade point average of at least 3.0; and your right to revoke the scholarship at any time upon the occurrence of various disciplinary measures vis-à-vis the recipient.

As part of the written acceptance of the scholarship, the recipient is required to acknowledge that you may request school-issued information regarding a recipient's academic progress (such as a transcript or progress report), and that the school shall be authorized to disclose such information to you. If at any time, the committee deems it appropriate to terminate a scholarship due to a violation of the grant terms, the committee will issue a written notification to the scholarship recipient of its decision. The recipient may request an in-person meeting with the committee to request reconsideration of the revocation decision, and the response to such request shall be determined in the sole discretion of your committee.

Additionally, if your committee determines that any portion of a scholarship award has been misused, they retain the right to require the recipient to repay such misused funds.

Your committee will receive and review grantee reports annually to monitor compliance with the scholarship terms, investigate any possible diversion of funds from their intended purposes and take all reasonable and appropriate steps to recover diverted funds. They will ensure scholarship funds are used for their intended purposes, and withhold further payments to recipients who are deemed likely to divert funds.

All scholarships shall be for one academic year. Individuals who have previously received a scholarship may reapply for an additional scholarship for any year during which such individuals maintain eligibility under the general eligibility criteria.

The committee is composed of individuals appointed by you and the W. You will appoint one or two independent individuals to serve on the committee, and the W will likewise appoint one or two independent individuals to serve on the committee. At all times, the number of individuals appointed by you and W will be equal. An individual is deemed to be "independent" if such individual has no present or past employment or business relationship with S; no present or past role as a director, officer, or employee of you or W, as the case may be; and no family relationship with the family of X or Y. In selecting individuals to serve on the committee, each of the boards will give strong preference to individuals knowledgeable about education.

Committee members appointed by you serve for a period of three years, unless removed by your Board of Directors or no longer able or willing to serve. Likewise, committee members appointed by W serve for a period of three years, unless removed by the Board of Directors of W or no longer able or willing to serve. A committee member may serve an unlimited number of consecutive three year terms.

The scholarship is designed to support the educational studies of promising youth who are the children of "Qualified Employees" of S. As described above, "Qualified Employees" are those individuals who have worked for S for at least two years and earn no more than v dollars. There are currently close to Z Qualified Employees working for S.

The policies and procedures adopted to govern the scholarship are designed to ensure that the scholarship functions exclusively in furtherance of charitable and educational purposes. Employees of S are not entitled to receive other forms of compensation in lieu of the scholarship, nor are employees guaranteed that their children will be selected to receive a scholarship. There is no additional employment requirement imposed on any employee whose child receives a scholarship, nor is there any employment requirement imposed on the recipient himself or herself. Employment with S as a "Qualified Employee" is used exclusively as a factor to determine initial eligibility, and the definition of "Qualified Employee" is structured to ensure that highly-compensated employees of S are not eligible.

In addition to providing scholarships to children of employees of S, the Foundations may also elect to award scholarship to children of employees of other companies that are partially owned by X and Y and their respective families. All of the policies and

procedures set forth herein with regard to scholarship awarded to children of employees of S will likewise be applied to all scholarship awarded by you.

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