

Internal Revenue Service

P.O. Box 2508
Cincinnati, OH 45201

Department of the Treasury

Release Number: **201846008**

Release Date: 11/16/2018

Date: August 20, 2018

Employer Identification Number:

Contact person - ID number:

Contact telephone number:

LEGEND:

B = scholarship
C = university
D = county/state
x 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 provided in Code Section 117(b)).

Description of your request

You will operate a merit based scholarship program called B to enable recipients to complete an undergraduate or graduate education in the field of their choice at select colleges or graduate schools. The policies and procedures for B were approved by your board of directors.

Recipients are selected on an objective and nondiscriminatory basis. The group from which recipients are selected must be sufficiently broad so that giving scholarships to one or more members of the group fulfills a charitable purpose; however, selection from such

a group is not necessary if one or more recipients are selected on the basis of their exceptional qualifications to carry out the purposes of B or it is otherwise evident that the selection effectuates the charitable purpose of B rather than to benefit particular persons or a particular class of persons.

You will award one or more scholarships per year, depending on the number of qualified applicants, in amounts of up to x dollars. Your staff and designated members of your Selection Committee will advertise the availability of B on the campus of C and encourage potential recipients to submit applications. Applicants will be required to submit application forms and supporting materials as you deem appropriate.

Recipients of B must be graduates of a D public high school and undergraduate students at C pursuing studies that meet the requirements for an academic degree.

Criteria for selecting recipients of B are:

- (1) Prior academic performance
- (2) Prior athletic performance
- (3) Prior leadership performance
- (4) Additional biographical information regarding an applicant's career, academic, and other relevant experiences
- (5) The Selection Committee's conclusions as to the applicant's motivation, character, ability, or potential.

B must be used for qualified educational expenses at C. Qualified educational expenses are certain expenses incurred in attending an educational institution – tuition and fees for enrollment and attendance.

You reserve the right to impose additional, minor reasonable restrictions and/or requirements upon the awarding and administration of B. Any substantial or material changes will be made only with approval of your board of directors.

Your Selection Committee may not be controlled by your donors. This means no combination of donors, persons appointed or designated by donors, and persons (a term that includes partnerships, corporations, and trusts as well as individuals) related to them may constitute a majority of the committee, be given a veto power, be allowed to chair the committee or otherwise be permitted to control the committee's decisions. If a donor/advisor recommends a person for appointment to a Selection Committee based on objective criteria related to the expertise of such person, such person will not be deemed to be appointed or designated by the donor/advisor.

Every member of your Selection Committee must adhere to your relevant policies as they may be adopted and amended from time to time, including without limitation, your conflict of interest and confidentiality policy. Each member of any Selection Committee must disclose any personal knowledge of and relationship with any potential grantee under consideration and refrain from participation in the award process in a circumstance where

they would derive, directly or indirectly, a private benefit if any potential grantee(s) are selected over others.

B may not be awarded to any member of your board of directors, any substantial contributor, any employee, or any other disqualified person. B may not be awarded to any donor/advisor or substantial contributor to the fund making the award, to any member of a Selection Committee for such award, or to any members of their families. Finally, B may not be made for a purpose that is not charitable.

Your Selection Committee will forward recommendations to you in such form and on such schedule as you shall establish. Your board of directors will approve each award.

Your Selection Committee is required by provision to have at least three members. If a member of the Selection Committee dies or becomes incapacitated, or is otherwise unable to act or continue to act in furtherance of the specified duties of the Selection Committee, the remaining members of the Selection Committee have the right and duty to name an agreed-upon successor. The selection of any new member of the Selection Committee will include a detailed evaluation of the background, qualifications, possible disqualifications and conflicts, and willingness to perform the required duties of a proposed member of the Selection Committee. The official selection of a new member of the Selection Committee shall be in written form and signed by the remaining members of the Selection Committee.

B will ordinarily be awarded for a one-year period. You may consider renewing B on a case by case basis according to the status of the recipient's project.

Unless otherwise provided in the fund agreement, B will be used only for qualified educational expenses. An additional condition is that no part of B be used as payment for teaching, research, or other services by the recipient.

You will pay B directly to C for the recipient to defray qualified educational expenses. C has agreed in writing to use B to defray expenses only if the recipient is enrolled and in good standing consistent with the purposes and condition of B.

You will conduct proper follow-up to determine whether recipient(s) have performed the activities B is intended to finance and have not diverted any funds away from the original purposes of B. You will do so through periodic progress reports made annually. If these progress reports are not made or there are other indications that B is not being used as intended, you will investigate and take corrective action.

You will keep records relating to B including:

- (1) Information obtained to evaluate potential recipients
- (2) Identification of recipients including any relationship to you that makes them a disqualified person
- (3) Amount and purpose of each scholarship

- (4) Follow-up information, including required annual reports and investigation of jeopardized funds.

Where the reports submitted or other information (including the failure to submit reports) indicate B is not being used for its intended purpose, you will investigate. While conducting your investigation, you will withhold further payments to the extent possible until any delinquent reports required under these procedures have been submitted. You will also take reasonable and appropriate steps to recover misused funds and/or ensure restoration of the diverted funds to the purposes of B. However, if the recipient has not previously diverted funds, you may elect to continue further payments if you receive assurance future diversions will not occur, that the recipient has restored the missing funds, and the recipient will take extraordinary precautions prescribed by you to prevent future diversions from occurring. If a further diversion takes place, you will take steps to recover funds.

The phrase "all reasonable and appropriate steps" includes legal action where appropriate, but may not include legal action if such action would in all probability not result in the satisfaction of execution on a judgment.

Information pertaining to unsuccessful applicants for B shall be kept along with information on successful applicants for no less than three years after the filing of your annual tax return for the period in which the last installment of B was paid.

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,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements