

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

Department of the Treasury

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Release Date: 2/8/2019
Date: **November 14, 2018**

Employer Identification Number:

Contact person - ID number:

Contact telephone number:

LEGEND

UIL: 4945.04-04

B = Name
C = Name
D = Individual
E = Name
F = Name
G = Test
H = Individual

w = Number
x 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 will annually sponsor up to w nonrenewable scholarships for children of employees of B and its subsidiaries through C scholarship program in the amount of x dollars. Recipients must use their scholarships only to pay educational costs

at an undergraduate institution that meets the requirements of Section 170(b)(1)(A)(ii) of the Code. To be eligible to receive a scholarship, applicants must:

- Be high school students who are children of employees of B who attain D status under F.
- Enter college in the fall term following their selection and enroll as a full-time undergraduate in a college or university in the United States that holds accredited status with a regional accrediting commission on higher education.
- Attend college during the day, enroll in a course of study leading to one of the traditional baccalaureate degrees, and remain in good academic and disciplinary standing.

In addition, scholarships are not payable for attendance at service academies, virtual universities, and certain institutions that are limited in their purposes or training.

Under your program, you enter into an agreement with E to sponsor a specified number of college scholarships for children of employees of B. E administers all aspects of the program and bears all administrative costs. Specifically, E selects individual scholarship recipients through F. The initial phase of F is G, which is given annually in participating high schools by high school officials. Those students scoring within the top one-half of one percent on a state-by-state basis are designated as H; they may advance to the level of D by confirming their scores on a second test, and by submitting an application form that includes a high school record (provided by their high school officials) showing strong academic performance, a personal essay, extra-curricular accomplishments and the recommendation of their high school principal or school official designated by the principal.

E is responsible for selecting students from among those children of employees of B who attained the level of D in F to receive scholarships sponsored by you. Specifically, all scholarship recipients are selected by an independent selection committee from E in its sole discretion. Furthermore, the probability of attaining the level of D through F (and therefore becoming eligible for a scholarship) is extremely low. If fewer than w attain D level, E will reduce the number of awards accordingly. If in the extremely unlikely event there are more than w students who attain D level, E will increase the number of awards accordingly.

Furthermore, E is responsible for confirming the individual scholarship recipient's enrollment at a college or university in the United States that holds accredited status with a regional accrediting commission of higher education; making payment of the award through the financial aid office of the educational institution; and supervising and investigating the use of the scholarships by the recipients in their educational program. In addition, recipients of scholarships you sponsor may accept other awards of financial assistance without affecting your one-time award.

You meet the provisions of Revenue Procedure 76-47. For example, your scholarships are not used as a means of inducement to recruit employees. A student's eligibility is determined at the time the scholarship award is offered and a scholarship will not be terminated if the student's parent subsequently terminates employment. The student's

eligibility may not be conditioned on any other employment-related factors, such as the parent's position, service or duties. The prior employment period for establishing eligibility may not exceed three years. Your procedures for awarding scholarships to students designated as D through F are considered to satisfy the "facts and circumstances" test of Rev. Proc. 76-47 because the probability of attaining D level through F (and therefore becoming eligible for a scholarship) is extremely low.

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 grant is awarded 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).

If a private foundation's program satisfies the seven conditions set forth in Sections 4.01 through 4.07 below, but does not meet the percentage test of Section 4.08 applicable to grants to employees' children or to grants to employees, as the case may be, the question whether the grants, awarded to individuals in the category (children or employees) in respect of which the percentage test was not met, are scholarships or fellowship grants subject to the provisions of Section 117(a) of the Code will be determined on the basis of all the facts and circumstances.

Your procedures for awarding scholarships to students designated as D through F are considered to satisfy the "facts and circumstances" test of Rev. Proc. 76-47 because the probability of attaining D level through F (and therefore becoming eligible for a scholarship) is extremely low.

You further represented that your procedures for awarding grants will meet the requirements of Revenue Procedure 76-47:

- 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 and/or the facts and circumstances test. If you establish another program covering the same individuals, that program must also meet the applicable tests.
- 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.

We have sent a copy of this letter to your representative as indicated in your power of attorney.

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