

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

**Department of the Treasury**

Release Number: **201920014**  
Release Date: 5/17/2019  
Date: **February 22, 2019**

**Employer Identification Number:**

**Contact person - ID number:**

**Contact telephone number:**

LEGEND

UIL: 4945.04-04

B = Employer

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 operate an employer-related scholarship program for children and dependents of employees and grandchildren of employees of B.

The purpose of your program is to provide financial assistance to an individual to pursue an education for that individual's own benefit.

To be eligible to apply for a scholarship, the student must:

- Be a child, a grandchild or a dependent of an employee of B;
- Be enrolled for a minimum of 12 credit hours each semester;
- Be pursuing a post-secondary education at an accredited two-year or four-year technical school, college, university or graduate school;

- Satisfy the minimum admissions standards of a qualified technical school, college, university, or graduate school.

You anticipate publicizing the scholarship program through memoranda to B employees. In addition, beyond notifying existing employees of the existence of the program, B will not use the scholarship program to induce prospective employees to join B or current employees to continue employment at B.

The recipients will be selected by a selection committee independent of you on an objective and non-discriminatory basis, with neither race, creed, color, sex, age, nor disability being considered. The committee will not include any employees (current or former) of yours or B's. You may also contract the services of an independent service provider that is in the business of performing scholarship administration services to private foundations, including selecting the recipients. Alternatively, the selection committee may include individual volunteers from accounting firms, charitable organizations, educational institutions, law firms, and/or banks.

Furthermore, the selection committee will choose grant recipients based solely on objective standards that are completely unrelated to the recipients' (or their parents', guardians' or grandparents') employment and to the B line of business. A scoring system will be used, and the initial tentative selection criteria and their maximum scores are as follow:

1. Grades / Academic Record / Academic Performance (25 points)
2. Individual data (25 points,)
  - Work Experience
  - Demonstrated Leadership
  - Extracurricular Activities - School / Community
  - Awards, Recognition and Honors
  - Statement of Goals and Aspirations
  - Unusual Circumstances
3. Outside Appraisal (20 points,)
4. Financial Need (30 points.)

Your board will determine the maximum scholarship award amount. However, your independent selection committee will determine the amount of each scholarship and may consider the amount of the tuition at the designated school or college as well as have the exclusive right to vary the amount of the scholarships awarded; the grants will also be awarded in the order recommended by the committee. In addition, the number of scholarships awarded annually will not exceed 25 percent of the number of individuals who were eligible for the scholarship program, applied for such scholarships, and were considered by the independent selection committee in selecting the scholarship recipients for that year or 10 percent of the number of individuals who were eligible for such scholarships, whether or not they applied in that year.

Scholarships will be given for one academic year. Under no circumstances will a recipient lose a scholarship merely because their parent, guardian, or grandparent is no longer an employee of B. Furthermore, the scholarship checks will be made payable in one or two payment(s) and mailed directly to the school. The award will be applied to the student's fall and/or spring semester for their tuition, fees, books, and room and board. Unused funds will be returned to you.

You will also require recipients to provide grade transcripts following each semester, quarter or term to verify they are still in good standing with the school or college and satisfy the ongoing eligibility requirements. Specifically, to maintain an award, the recipient must continue to:

- Attend an accredited two-year or four-year technical school, college, university, or graduate school; and
- Satisfy the minimum admissions standards of such technical school, college, university, or graduate school.

You represent that you will arrange to receive and review grantee reports annually and upon completion of the purpose for which the grant was awarded, investigate diversions of funds from their intended purposes, and 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 represent 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 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,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements