

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

Department of the Treasury

Number: **202043009**
Release Date: 10/23/2020

Date: June 3, 2020

Employer Identification Number:

Contact person - ID number:

Contact telephone number:

LEGEND

UIL: 4945.04-04

W = Scholarship Program
X = Company #1
Y = Company #2
Z = Company #3
c dollars = dollar amount
d dollars = dollar amount
e = percentage
f =
g =
h =

Dear :

You asked for advance approval of your employer-related scholarship grant procedures under Internal Revenue Code (IRC) 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 IRC 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 IRC Section 117(b)).

Description of your request

Your letter indicates you will operate an employer-related scholarship program W.

Your purpose is to small monetary scholarships to qualified children of employees of X, Y and Z.

The purpose of the program is to support the education of the children and dependents of employees of the organizations. The scholarship is applied to tuition, fees, books, supplies and equipment required for course load at accredited two or four-year colleges, universities, vocational or technical schools within the United States. The scholarship amounts will range between c dollars and d dollars.

You stated your foundation will not be giving educational loans.

The program will be publicized on the organizations' websites and will also be publicized to all employees of the organizations through a philanthropy document provided by the foundation.

The Applicants must meet the following criteria to be eligible for a scholarship:

- a. Be a high school senior or currently enrolled or planning to enroll at an accredited two or four-year college, university, vocational or technical school within the United States for the applicable academic year; and
- b. Be the son, daughter, or legal dependent of a qualifying employee who has completed at least two full years of service with one of the organizations.

You stated upon receipt of applications from individuals who are applying for a scholarship for the first time, the application will first be reviewed to make sure that the individual applying meets the eligibility criteria, then once determined, these applications will be put into the pool of applicants. The combined pool of applicants will then be submitted to the independent selection committee.

The independent selection committee will evaluate the applications and select the recipients based on the following criteria:

- a. Financial need.
- b. Community involvement.
- c. Academic achievements and records.
- d. Recommendations.

The independent selection committee is solely responsible for evaluating the applications and selecting the recipients. No personnel, benefactors, supporters, substantial contributors, etc. of the organizations are involved in the selection process.

The number of eligible scholarship applicants each year will be limited to e percent of the total number of full-time equivalent employees of the Organizations. The current number of full-time equivalent employees of the Organizations is approximately f.

The grant amount will be determined by and in the sole discretion of the Foundation's Board of Directors. The scholarship amount shall not exceed d dollars per scholarship recipient per year.

Upon receipt of an application from an individual who is applying for a scholarship in a subsequent year, applications will automatically be placed into the pool of applicants without prejudice and without review of eligibility criteria since the eligibility criteria was reviewed and met in the initial year the applicant applied for the scholarship. The applicant will have to satisfy the eligibility criteria of currently being enrolled in an eligible educational institution within the United States to maintain eligibility.

Scholarships are paid directly to the student whereby the student will apply the funds towards tuition, fees, books, supplies and equipment required for the students' course load. The foundation will provide one accounting of distributed scholarships funds at g days after initial disbursement. The foundation will maintain appropriate records and case histories of all recipients of scholarship grants.

The criteria for the selection committee membership includes:

- a. Interest in academic achievement.
- b. Business experience.
- c. Not a member of the organizations and over the age of h.
- d. The method for replacing the committee members is the president of the foundation will elect new members after each member's 3-year term has expired.

You stated you will provide scholarships to attend an educational institution to children or dependents of employees of the organizations with regard to the 25% limitation or the 10% limitation described in revenue procedures 76-47. Instead, you will award scholarships based on facts and circumstances that demonstrate that the scholarships will not be considered compensation for past, present or future services or otherwise provide a significant benefit to the organizations. In particular:

- a. You will use an independent selection committee whose members are separate from the organizations and their creators or owners to select scholarship recipients.
- b. You will not use the program to recruit employees.
- c. You will not end a scholarship or remove a recipient from the application pool if the employee leaves the organizations after the scholarship has been awarded.
- d. You will make prior recipients automatically eligible without regard to any employment status.

- e. The selection criteria used by the independent selection committee to select scholarship recipients are based upon objective standards that are completely unrelated to employment with the organizations.
- f. You will not limit the scholarship recipients' course of study in any form that would particularly benefit the organizations.
- g. Nothing in the program, such as part-time employment, disqualifies a significant number of persons who serve the organizations.
- h. The number of employees whose children will be eligible to apply for scholarships is sufficiently large and open-ended to constitute a charitable class.

Basis for our determination

The law imposes certain excise taxes on the taxable expenditures of private foundations (IRC 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 IRC 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 IRC Section 117(a).
- The grant is to be used for study at an educational organization described in IRC 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 IRC 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 IRC 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 IRC 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

cc: