

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

Department of the Treasury

Date: October 13, 2020

Employer Identification Number:

Number: 202101009
Release Date: 1/8/2021

Contact person - ID number:

Contact telephone number:

LEGEND

UIL: 4945.04-04

X =
Y =
Z =

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 that you will operate an educational grant program called the X.

The X was created pursuant to an agreement between you, Y, and Z. The purpose of X is to award grants to graduating high school seniors furthering their education at a qualified postsecondary educational institution who are also the children and/or grandchildren of active, retired, or deceased employees of the Y.

At a minimum, you represent that two grants will be paid directly to recipients and may be used for tuition, fees, and/or room and board while pursuing an undergraduate degree in any field. Grants are not renewable.

To advertise your grant program, you represent that you rely on your public website, the Y, the Z, and local public high school guidance counselor offices.

At a minimum, your program requires an application form, two letters of recommendation, an official high school transcript, and a personal photograph that must be submitted by an annual deadline. One letter of recommendation must be completed by the applicant's high school principal or counselor, while the other may be completed by an employer, minister, neighbor, or other non-relative adult that knows the applicant well. Applicants may also be required to complete a personal interview.

You represent that your board of trustees serves as the selection committee and all trustees are independent of the Y and the Z. Any member of the selection committee will excuse himself or herself from the selection process if it is discovered that he or she would derive a direct or indirect benefit from the selection of a candidate.

You represent that the selection committee will collect and review applications to determine which applicants meet the relationship criteria to a current, former, or retired employee. After the relationship is verified, you represent that the selection committee will choose recipients based on one or more of the following: extracurricular activities in school; community activities; employment record; high school transcripts; financial need; and signed letters of recommendation from the applicant's principal or school counselor and employer, minister, neighbor, or any other adult who is unrelated to the applicant. Applicants must also demonstrate to the satisfaction of the selection committee that their personal behavior and character would reflect positively on the Y and the Z.

This selection criteria furthers your exempt purposes of promoting the cause of education while also providing an objective and nondiscriminatory basis for awarding grants because the initial qualifying criterion of establishing a relationship to an active, former, or retired employee of the Y is limited to the initial recipient pool. Once the pool is created, no further consideration is given for this criterion. The scholarships are not used to recruit or induce employment of parents or grandparents of the recipients.

You represent that you will comply with the seven conditions and the percentage test for scholarships, as set for in Revenue Procedures 76-47 and 80-39, which apply to inducement, selection committee, eligibility requirements, objective basis of selection, employment, course of study, and other objectives. You represent that the number of scholarship recipients who are children of employees working for Y shall not exceed either 25 percent of the number of employee families who (i) were eligible, (ii) applied for such grants, and (iii) were considered by the selection committee in selecting the recipients.

For disbursement of grants, you represent that funds are paid directly to recipients to pay for tuition, fees, and/or room and board. You will request from the recipients' educational institutions an annual report on the academic progress of each recipient. If recipients fail

to meet required academic standards, you represent that you will revoke any unused portions of the grants.

To ensure grants are used for their intended purposes, you represent that you will conduct reviews of annual reports provided by educational institutions. Diversions of grants from their intended purposes will be investigated and any future disbursements will cease until the institution and/or the recipient provide reasonable assurance that preventative measures have been implemented to mitigate any future diversions.

To maintain records, you represent that you will keep the following on file: the names and addresses of grant recipients; how each recipient was selected; the purposes for and amounts of each awarded grant; and the relationship (if any) between grant recipients and your officers, trustees, and/or donors. You represent you will also maintain records of the annual reports provided to you by educational institutions, as well as records of any reports and/or investigations of diversions 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.

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