

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

Department of the Treasury

Number: **202103019**
Release Date: 1/22/2021

Date: October 27, 2020

Employer Identification Number:

Contact person - ID number:

Contact telephone number:

LEGEND
B = Company

UIL: 4945.04-04

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. Your scholarship program will be available to children, dependents, and grandchildren of employees of B and its subsidiaries.

Neither you nor B will use the scholarship program to recruit employees or to induce employees to continue their employment, or otherwise to follow any other course of action sought by B. For example, the scholarship program will not be conditioned on continued employment at B and an awarded scholarship will not be forfeited if employment of a recipient's parent, guardian, or grandparent is terminated by B. 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 there. You will publicize the scholarship program through memoranda to B employees.

The scholarship program will impose identifiable minimum requirements for grant eligibility. For example, an individual will qualify as an eligible grantee if the following requirements are satisfied and verification of same is submitted to the selection committee, which will retain such documentary evidence:

- The student is a member of the charitable class.
- The student must be enrolled for a minimum of 12 credit hours each semester.
- The student is pursuing a post-secondary education at an accredited two-year or four-year technical school, college, university or graduate school.
- The student satisfies the minimum admissions standards of such technical school, college, university, or graduate school.

Eligibility will not be related to employment-related criteria, such as the employee's continued employment with B, position, services, or duties.

The members of your selection committee will be independent of you and will not include any employees (current or former) of B or affiliates. You may retain the services of an independent service provider that is in the business of performing scholarship administration services to private foundations, including scholarship selection committees.

Your Board will determine the maximum scholarship award. However, the independent committee will determine the amount of each scholarship grant. Consideration may be given for the amount of the tuition at the designated school or college. Scholarships will be given for one academic year. Scholarships will be awarded in the order recommended by the committee. Either you or the committee will publicly announce the awards.

Selection of scholarship recipients will be based solely on objective standards that are completely unrelated to the recipients' (or their parents') employment to B or its line of business. You will use the following objective criteria to select recipients: Prior academic performance and achievement; performance on tests designed to measure ability and aptitude for higher education (such as the ACT and SAT); recommendations from instructors or other individuals unrelated to the candidate; involvement in community activities, artistic activities, athletics, work experience, and other extra-curricular activities; and financial need.

Once a scholarship is awarded, it may not be terminated because the recipient (or his or her parent) terminates employment at B. Courses of study for which scholarships are available will not be limited to those that would be of particular benefit to you or B. As discussed above, scholarships will be available to students pursuing post-secondary education at any accredited two-year or four-year technical school, college, university or graduate school, regardless of the course of study.

Scholarship checks will be made payable in one or two payment(s) and mailed directly to the school or college. The award will be applied to the student's fall and/or spring

semester tuition, fees, books, and room and board. You will require recipients to provide grade transcripts following each semester, quarter or term to verify each recipient is still in good standing with the school or college and satisfies the on-going eligibility requirements discussed immediately above. Unused funds will be returned to you.

The terms of the grant and the courses of study will meet all other requirements of Section 117 and will be consistent with the disinterested purpose of enabling the grantees to obtain an education solely for their personal benefit. The scholarships will be awarded on an objective and non-discriminatory basis, with neither race, creed, color, sex, age, nor disability being considered.

You will award scholarships to no more than 25 percent of the eligible applicants considered by the selection committee each year. You will verify annually that the number of individuals awarded scholarships 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 program's 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.

To maintain an award, the individual must continue to satisfy the following requirements:

- The student continues to attend an accredited two-year or four-year technical school, college, university, or graduate school.
- The student continues to satisfy the minimum admissions standards of such technical school, college, university, or graduate school.

You represent that you will (1) arrange to receive and review grantee reports annually and upon completion of the purpose for which the grant was awarded, (2) investigate diversions of funds from their intended purposes, and (3) 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 related to the following: (1) individual grants including information to evaluate grantees, (2) grantees which are identified as a disqualified person, (3) how the amount and purpose of each grant was established, and (4) how you established supervision and investigation of the grants described above.

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