

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

Department of the Treasury

Number: **202117018**
Release Date: 4/30/2021

Date: February 2, 2021

Employer Identification Number:

Contact person - ID number:

Contact telephone number:

LEGEND

UIL: 4945.04-04

B = Corporation
c dollars = Amount

Dear :

You asked for advance approval of your employer-related scholarship grant procedures under Internal Revenue Code Section 4945(g)(1) and 4945(g)(3). 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 and educational grants. 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 and educational grants meet the requirements of Code Section 4945(g)(1) and 4945(g)(3). 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

You plan on providing two grant making programs. You will offer both a Section 4945(g)(1) employer-related scholarship program and a Section 4945(g)(3) grant-making program.

For your Section 4945(g)(1) scholarship program, you will provide educational scholarships to students who are children of B employees, who are enrolled or plan to enroll at an accredited institution of post-secondary higher education in the United States

described as schools under Sections 509(a)(1) and 170(b)(1)(A)(ii) including vocational and trade schools.

The amount of the scholarships will be c dollars per year to be used for tuition and fees and can be renewed if recipient is still in good standing. The program will be publicized through company meetings, pamphlets, company website and word of mouth. To be eligible for the educational scholarship the applicant must:

- a. Be the child of a current employee of B
- b. Enrolled or planning to enroll in accredited institution of post-secondary higher education
- c. Submit an application for financial need as determined by FAFSA
- d. Submit a letter of recommendation from a teacher or counsellor, and
- e. Submit a one-page essay.

The selection committee will select recipients for the educational scholarship based on financial need, extracurricular activities, and the content of their essay. Payments for educational scholarships will be made directly to the recipient's educational institution to supervise the use of the funds. In addition, you will periodically check in with the recipients to monitor the use of the funds. For renewals of the scholarship you will confirm with the institution the recipient is in good standing before distributing additional funds.

You have also requested approval of a grant-making program as described in Section 4945(g)(3). You indicated that it is possible there may be travel related expenses associated with the employer-related educational scholarships, which would be classified under Section 4945(g)(3). You will also provide community scholarships for exceptional individuals who are interested in enhancing a particular skill or achieve a specific objective, produce a report or similar product, improve or enhance a literary, artistic, musical, scientific, teaching, or other similar capacity skill or talent. The sole purpose of the grant is to enable an individual of demonstrated capacity to produce creative work in the arts and devote him or herself to such work exclusively and uninterruptedly.

The community scholarship program is expected to focus on providing support, both financial aid and psychological support, for individuals in the community at a time it can make a significant impact on their career. Your focus in awarding community scholarships will be to seek proposals that will have impact beyond the project period, recognizing that this work may take many shapes and forms. You expect applicants to submit a letter of recommendation from a teacher or mentor, a sample of their work, as well as a completed essay as part of the application process. Recipients will be selected based on the overall score received, and the highest scoring applicants will be awarded grants.

Eligibility for the community scholarship requires individuals to be highly qualified in the arts. Recipients for the community scholarship will be selected based on:

- a. Financial need
- b. Merit of their prior work and ability, and

- c. Ability for the proposed project to have a beneficial outcome beyond the project period.

You expect to make awards for workshops and gatherings (for example, events that bring together artists, cultural specialists or community leaders to share skills and information, or to engage in discussion and problem solving) or other educational programs within a community. Various kinds of mentorships, honoraria, travel costs and other types of activities and projects that lead to cultural continuity and development will also be supported. In addition, you expect to be in periodic communication with recipients as part of the program.

Recipients of the community scholarship will be required to give periodic accounting reports showing how the funds were spent. If you learn that any part of the funds are not being used to further the purposes of the grant, you will withhold additional payments from the recipient and will take all reasonable and appropriate steps to recover the grant funds and/or restoration of the diverted funds to the purposes of the grant.

Recipients for both grant programs will be selected by a selection committee appointed by your board of directors. The committee will consist entirely of unrelated individuals from you and your related corporation. Committee members will be preferably from the education field. Former employees of B or you will not be considered unrelated and therefore will not be on the committee. Relatives of members of the selection committee and your directors, officers or other disqualified persons, as defined pursuant to Section 4946 of the Code and regulations thereunder, are not eligible to receive awards. You will review each applicant to determine whether there are any such family relationships.

The number of grants awarded each year will not exceed 25 percent of the number of employees' children who, (i) were eligible, (ii) were applicants for such grants, and (iii) were considered by the selection committee in selecting the recipients of grants in that year, or 10 percent of the number of employees' children who can be shown to be eligible for grants (whether or not they submitted an application) in that year.

You attest you will comply with the seven conditions and either the percentage tests or facts and circumstances test for scholarships, fellowships, and educational loans to attend an educational institution as set forth in Revenue Procedures 76-47, 1976-2 C.B. 670, and 80-39, 1980-2 C.B. 772, which apply to inducement, selection committee, eligibility requirements, objective basis of selection, employment, course of study, and other objectives.

You represent that you will complete the following (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 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 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