



Department of the Treasury
Internal Revenue Service Tax Exempt and Government
Entities
P.O. Box 2508
Cincinnati, OH 45201

Date: February 8, 2022

Release Number: 202219016
Release Date: 5/13/2022

Taxpayer ID number:

Person to contact:

Name: ID number:

Telephone:

LEGEND

P = Name or scholarship program
Q = Geographic area
R = Locality within geographic area
S = Locality within geographic area
T = Locality within geographic area
U = Locality within geographic area
V = Locality within geographic area
W = Locality within geographic area
X = Locality within geographic area
Y = Locality within geographic area
Z = Locality within geographic area
c = Minimum number of hours
d = Maximum number of hours
e = Minimum number of scholarships
f = Maximum number of scholarships
g dollars = Minimum dollar amount
h dollars = Maximum dollar amount

UIL: 4945.04-04

Dear _____ :

You asked for advance approval of your scholarship procedures under Internal Revenue Code (IRC) Section 4945(g)(1). You requested approval of your scholarship program to fund the education of certain qualifying students.

This approval is required because IRC Section 4945 provides for the imposition of taxes on each taxable expenditure of a private foundation. Section 4945(d)(3) provides that the term "taxable expenditure" includes any amount paid or incurred by a private foundation as a grant to an individual for travel, study, or similar purposes by the individual, unless the grant satisfies the advance approval requirement of Section 4945(g).

Our determination

We approved your procedures for awarding scholarships. Based on the information you submitted, and assuming you will conduct your program as proposed, we determined that your procedures for awarding scholarships meet the requirements of IRC Section 4945(g)(1). As a result, expenditures you make under these procedures won't be taxable.

Additionally, 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 a scholarship program called P for students pursuing a degree or certificate from a college/university or technical and vocational education training ("TVET") program. Grants will be made annually to students from the Q, including R, S, T, U, V, W, X, or Y, who demonstrate leadership, significant volunteer work, and dedication to community service. Students who have demonstrated a commitment to the study and contributions of the cultures and people from the Q will also be considered as eligible candidates.

Although not a requirement, you will strongly encourage scholarship recipients to return to their home countries or the Q region early in their careers post-graduation to work, lead others, improve the local economy, and pay forward their educational experience.

As part of any award made under P, scholarship recipients will be required to "give back" by mentoring youth in their area attending a secondary school during the time scholarship recipients are in school. Those attending school in a home country will be expected to mentor youth during the school year. For those attending school out of their home country, the scholarship recipients will be expected to mentor youth in their home country when they return during any school breaks, or mentoring youth in the country in which they attend school. An expectation of c to d hours of mentoring time is required.

Scholarship recipients will also be required to take a _____ course during the first year of the scholarship award granted, either through the educational institution attended or, if not available, through another program to be determined with the applicant. The _____ course will be at no charge to the scholarship recipient. The grants have the potential to be renewed by the applicant for up to _____ years.

You expect to grant e to f scholarships per year with an average of g to h dollars each year. Scholarships are used for tuition and student fees. You plan to publicize P through multi channels, including your website and program announcements by local country leaders of the Z, to ensure a broad participation.

You indicate you will maintain detailed case histories including the applications, supporting documents, names and address of grantees, the name of the school the recipient attends, and total amount of the grant. The case histories will contain everything that the selection committee used to determine eligibility as well as criteria used for selection. Also, the report will contain the annual reports and transcripts submitted by the recipients and/or educational institutions. You will also include the results of your OFAC SDN (Office of Foreign Assets Control Specially Designated Nationals) list comparisons and records showing that the applicant bears no relationship to any officers, directors, or selection committee members. Records will be kept for at least _____ years after the date of the last payment made to recipients.

You indicated that the criteria for eligibility for scholarships is:

- Applicants must be citizens or residents of, and/or have demonstrated commitment to the study and contributions of the cultures and people from the Q, including R, S, T, U, V, W, X or Y.
- Preference will be given to students who demonstrate leadership, significant volunteer work and

dedication to community service and/or are recently returned missionaries of the Z.

- Demonstrate a financial need
- College/University applicants must be high school graduates and have a 2.75 GPA (grade point average) or higher. If the GPA measure is not used or calculated by the applicant's secondary school/country, then the subject grades of the applicant will be considered collectively as follows:
 - C or better in language and letters
 - B or better in advanced mathematics
 - B or better in two or more social science classes
 - B or better in two or more science classes
 - A minimum Test of English as a Foreign Language (TOEFL) or equivalent score (to be determined) range will also be considered if applicant plans on attending an English-speaking college/university and English is not their native language.
- TVET program applicants must have a minimum 2.0 GPA during high school. If the GPA measure is not used or calculated by the applicant's secondary school/country, then the subject grades of the applicant will be considered collectively as follows:
 - C or better in language and letters
 - C or better in advanced mathematics
 - C or better in two or more social science classes
 - C or better in two or more science classes

Further preference will be given to TVET applicants who have graduated from high school. This is a not a requirement and will depend on an individual's personal facts and circumstances.

You indicated that children, grandchildren, or other close relatives of your officers, directors, substantial contributors, and other individuals considered disqualified persons under IRC Section 4946 are not eligible for scholarships. Further, selection committee members and their close relatives are not eligible for scholarships. A close relative would include any familial relationship between a selection committee member and the potential recipient, such as children, nieces, nephews, siblings, etc. You will not discriminate on the basis of race, gender, national origin, sexual orientation, or religion.

The Selection Committee will be composed at all times of approximately three to five individuals. Initially, it will be composed of members of your Board and will eventually expand to include other members. In selecting committee members, you will take into consideration each person's knowledge of and experience in the education field, and also potentially include, but not be limited to, graduates of colleges/universities in the local countries of the applicants identified above or the United States. You may also invite former scholarship award recipients to serve on the selection committee on a rotating basis in the future.

Your Board, in its sole discretion, may add or remove members of the selection committee and will replace members upon their resignation, removal, or inability to serve. New members of the selection committee will be individuals who are determined by the Board to possess the requisite knowledge, experience, commitment, and abilities to serve on the selection committee. Each member is obligated to disclose the existence of a relationship that he or she has with any potential grantee under consideration. Further, members will refrain from participation in the award process if such member could derive, directly or indirectly, a tangible private benefit from any potential grantee's selection over that of other potential grantees.

The criteria that your selection committee will use to determine the recipients includes:

- The type of school the applicant plans to attend. Priority will be given to those applicants attending TVET programs.
- Character of the applicant, as demonstrated through the application process. The application process will require submission of an official high school transcript, one to two letters of recommendation, a

personal essay, and, as needed, an interview. In particular, you are looking for applicants who can demonstrate the following qualities:

- Critical Thinking: Analytical, creative problem-solvers that develop an independent point of view.
- Leadership: Desires to lead as well as has leadership experience.
- Resilience: Perseverance in the face of challenges or other hardships.
- Academic Merit: Demonstrating motivation and excellence by maintaining a 2.75 cumulative GPA and 2.75 semester GPA throughout high school, or general equivalent for key curriculum subjects of language, math, social science, and science. Consideration of lower GPA may be given to those pursuing a TVET program certification/degree.
- Financial need as evidenced by the applicant's personal statements and additional information or evidence provided through the application process.

You will ask applicants to verify that the planned educational institution in a foreign country is operated in accordance with IRC Section 170(b)(1)(A)(ii), that is, that the institution is an educational organization which normally maintains a regular faculty and curriculum and a regularly organized body of students in attendance where educational activities are carried on. You will ask each grant recipient for confirmation that this is still true about the institution in its narrative report.

Recipients are also required to be enrolled in an educational institution, on a full-time basis, according to the individual school's definition of such status. Grants made under the program are renewable for up to three years, but such renewal is conditioned on the grant recipient's maintenance of a GPA of 3.0 or higher each semester and cumulatively unless otherwise accommodated by the Board of Directors. In order to receive additional funds, the student will be required to provide their yearly FAFSA form (if attending school in the United States), as well as a written request to renew the scholarship grant each year. Additionally, the renewal of scholarships will be dependent on the applicants providing youth mentoring. In the alternative, the Board can consider other community service as a substitute for the mentoring requirement. A written description of the community service will need to be provided to the Board.

Each written renewal request must include the following information:

- Progress made during the previous academic year,
- Discussion of experience/hours mentoring youth (or community service if applicable),
- Personal goals and plans for the upcoming academic year, and
- A description of any anticipated internship or job pertaining to academic study.

Each renewal of a grant is contingent on the grant recipient's continued enrollment and good standing in an above-described educational institution. However, if a grant recipient fails to remain in good standing with his or her educational institution, or fails to maintain the required GPA, the Board of Directors may accommodate a grant recipient if such poor status is a result of extenuating circumstances (for example, a temporary withdrawal due to the illness of a close family member). Such accommodation will be granted at the sole discretion of the Board of Directors on a case-by-case basis.

You will disburse funds directly to educational institutions. You will require each institution to agree to use the grant funds to defray the grant recipient's qualified tuition and related expenses or to apply the funds otherwise for his or her benefit only if the grant recipient (1) is enrolled at such educational institution and (2) remains in compliance with the institution's academic requirements necessary to obtain the desired educational degree. If a grant recipient fails to enroll, drops out, or fails to remain in compliance with the institution's academic requirements, such institution will be required to return all unused grant funds.

You also indicate that in respect to any checks issued to foreign educational organizations, you will request the names of the foreign organization's officers, directors, trustees, and key employees so that you may

compare these names, as well as the name of the foreign organization itself, to the names on the OFAC SDN List. This will be done using a software application which aggregates numerous watch lists.

You will require each grant recipient to provide an official college/university, trade school or vocational training transcript and an annual narrative report describing the recipient's experiences and accomplishments over the past academic year. If recipients fail to submit the required reports and documentation, or where such reports, or other information, indicates that all or any part of a grant is not being used in furtherance of the grant's intended purposes, you will withhold further payments, to the extent possible, during the course of your investigation of the jeopardized grant. In the event of a misuse of funds, you will determine if the situation is a mistake and whether it can be corrected. If you discover that grant funds have been misappropriated, you will take all reasonable steps to recover any diverted funds or to ensure that any unused portion is either returned or used for the intended purpose of the grant, as required by Treasury Regulation Section 53.4945-4(c)(4). Further, in any case where you have determined that grant funds have been misused, you will refrain from making additional disbursements and take further appropriate action as necessary.

You represent that you will complete the following.

- Arrange to receive and review grantee reports annually and upon completion of the purpose for which the grant was awarded,
- Investigate diversion of funds from their intended purposes,
- Take all reasonable and appropriate steps to recover the diverted funds and 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 diversion from occurring.

You also represent that you will:

- Maintain all records relating to individual grants including information obtained to evaluate grantees,
- Identify 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

IRC Section 4945 imposes excise taxes on the taxable expenditures of private foundations. 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 the following requirements of 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 the provisions of Section 117(a).
- The grant is to be used for study at an educational organization described in Section 170(b)(1)(A)(ii).

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 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 IRS at:

Internal Revenue Service
Exempt Organizations
Determinations TE/GE Stop 31A
Team 105
P.O. Box 12192
Covington, KY 41012-0192

You can't 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'll make this determination letter available for public inspection after deleting personally identifiable information, as required by IRC Section 6110. We've enclosed Letter 437, Notice of Intention to Disclose -Rulings, and a copy of the letter that shows our proposed deletions.

- If you disagree with our proposed deletions, follow the instructions in the Letter 437 on how to notify us.
- If you agree with our deletions, you don't need to take any further action.

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, you can contact the person shown at the top of this letter.

Sincerely,

Stephen A Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosures:
Letter 437

cc: