



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

Date: 04/14/2022

Taxpayer ID number:

Person to contact:

Name:

ID number:

Telephone:

Release Number: **202227015**

Release Date: 7/8/2022

UIL: 4945.04-04

LEGEND

B = School 1

D = Number

E = Organization

F = School 2

x dollars = Amount

y dollars = Amount

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. IRC 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 IRC 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 operate a scholarship program for high school senior students from B to attend higher education in the fall following graduation. Your scholarship program will be publicized within the school and in the local newspaper.

Senior graduating students from B whose parents or guardians are members of E for two of the last five years are eligible to apply by submitting a one-page essay and a questionnaire.

You identify those individuals who have the greatest need for assistance and/or who show strong potential to succeed. You may also conduct personal interviews. Your selection criteria include the following:

- Financial need
- Prior academic performance or demonstrated excellence or potential
- An evaluation of the applicant's motivation, ability, character, achievement, and potential

You use the following scoring scale:

- Courses ()
- GPA/rank ()
- Test scores ()
- Activities, honors, awards, and work experience ()
- Career plans aligned with academic ability ()
- Application (), and
- Essay ()

You award scholarships on an objective and nondiscriminatory basis. You do not discriminate on the basis of race, gender, sexual orientation, ethnicity, nationality, or religion.

You award in the range of D scholarships annually and each scholarship will be in the amount between x dollars and y dollars. You notify a recipient with an award letter indicating the amount of the grant and the terms and conditions of its use. The recipient will be required to sign and return for purposes of indicating his or her acceptance of the award. The scholarship is not renewable. Funding is provided in the form of a check with the recipient and educational institution as payees.

You may require recipients to submit semester or quarter progress reports. If reports indicate any recipients did not maintain a grade point average of at least 2.0, engaged in questionable or unbecoming habits or conduct, did not meet a full-time student status, had dropped out, or is no longer attending, you will declare forfeiture on any unpaid portion and try to recover any portion theretofore paid.

Your selection committee members consist of:

- President of E
- Principal of B
- A member of Board of Directors of E
- School Guidance Counselor of F
- A person engaged in a business in the service of E, and
- A member of the School Board of B

Your directors and officers and their family members are not eligible to receive grant awards. Relatives of members of the selection committee will be eligible for awards. If relatives of committee members apply for scholarship, the committee members are required to find replacements who must meet same qualifications of the committee member. All applications submitted to the committee must not include any identifying information of the applicant.

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 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 the provisions of 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).

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

- 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.

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