



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

Date:  
07/25/2022  
Taxpayer ID number:  
  
Person to contact:

Number: 202242008  
Release Date: 10/21/2022

UIL: 4945.04-04

**LEGEND**

B = Scholarship Program  
C = High School  
D = High School  
F = State  
G = State  
h 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 will operate a program called B. You will award a -year scholarship of h dollars per academic year to a graduating senior of both C and D.

The principal of each participating school shall name a nominating committee composed of the principal or the assistant principal and four teachers of academic subjects, one of whom shall be the guidance counselor if there is such. This committee shall nominate three students for consideration by the awards committee as candidates

for B. No committee member shall be related as a parent, grandparent, sibling, aunt, uncle or any other kinship to any nominee under consideration for an award.

Your Board of Directors shall name five business or professional persons from the area served by the school to serve as an awards committee, whose function shall be to select a recipient from the nominated students. No committee member shall be related as a parent, grandparent, sibling, aunt, uncle or any other kinship, or employer or employee of a parent of a nominee under consideration for an award. The principal or the principal's designate shall furnish the awards committee with a transcript of each student nominee's high school performance, record of the nominee's performance on designated tests to measure ability and aptitude for college/university work, participation in extra-curricular activities, including but not limited to literary rallies, science fairs, speech tournaments, athletic teams, student body government, drill teams, cheerleader squad, National Honor Society, Junior Achievement, military groups, professional and business clubs, drama groups, Boys and Girls State, and outside employment, as well as other appropriate information for the awards committee to consider for an award. The principal or the principal's designate will have each nominee submit a written statement, no longer than pages, outlining their academic and career goals.

Each nominee must be a citizen of the United States and reside in F or G at the time of the award. A nominee must have been registered in the school which they are attending at the time of the award and semesters immediately preceding graduation. A nominee must have maintained at least a grade point average (GPA) on a 4.0 scale throughout their high school career and rank within the top % of their graduating class. Each nominee must have a minimum SAT score of or minimum ACT score of provided that if the college or university which they will be attending does not require the submission of the SAT or ACT for purposes of admission, then the foregoing requirement may be waived by your Board. The committee shall consider all information submitted above, written letters of reference and recommendation provided by the nominee from present or former teachers, civic leaders, church pastors or priests and other appropriate adult persons, other than committee members or relatives mentioned before, demonstrating their character, conduct, motivation, leadership qualities, respect for teachers and fellow students.

A student nominee will be ineligible to receive an award who, during the course of their high school education, has encouraged, supported, incited, aided, abetted or participated in any activities which interfered with the education, civic, church or family programs, or disrupted the peace, harmony and tranquility of the schools, communities, church and families relating to such nominee. Public records of alcohol and substance abuse will eliminate any candidate from consideration.

The awards committee shall designate an alternate recipient who, in the event the original winner recipient declines or does not enroll in a qualifying institution, or for any reason is disqualified, will become the scholarship holder for the remaining period of the award, providing that they meet the requirements of recipients as follows:

1. The recipient must register and complete a minimum of twelve semester hours (or 9 semester hours for quarter system) of scholarly work at a four-year, fully accredited institution, commencing the next regular semester (excluding summer) following high school graduation.
2. To continue to hold the scholarship, the recipient must enroll for and complete sufficient hours of scholastic work to be classified as a full-time student at the particular school, maintain a GPA for the first year and thereafter maintain not less than a GPA. The GPA will be computed by multiplying the grade point equivalent number times the hours awarded for the course and dividing the total of the products by the total hours completed.
3. Should the recipient not maintain a GPA the first school year and thereafter a GPA during any scholastic semester, the award shall be suspended for the next ensuing semester. The award shall not be

reinstated unless the student maintains a      GPA during the semester immediately following suspension. If so reinstated, should the student thereafter not maintain a      GPA during any succeeding semester, the award shall be terminated, and no further grants made. The alternate designated previously shall be awarded the scholarship upon termination of the recipient's scholarship.

4. The recipient should pursue the completion of four years of collegiate work at the rate of two semesters per collegiate year (or three trimesters per collegiate year if the college or university is on a trimester plan), without interruption. Except for reason of illness or being required to serve in the Armed Forces of the United States of America or such other similar or comparable circumstances as approved by your Board, failure to attend college for two years will terminate the scholarship. Should interruption occur, due to any of these reasons, the student must notify you within ninety calendar days of the reason for termination from college in order to be considered for future reinstatement.

5. Eligibility for the scholarship will continue only as long as the recipient's conduct, character and behavior, in the sole and absolute discretion of your Board, continues at substantially the same high standard which existed at the time the scholarship was originally granted.

You shall make all payments directly to the college or university the recipient is attending, toward the costs of tuition, room and board for college or university housing, textbooks, other required instructional materials, and all required and usual college fees and deposits. No payment shall be made on any items listed as "personal, miscellaneous or general." Unused fees or deposits shall be returned to you.

Institutions receiving payment for student participants in B must submit to you at the beginning of each semester:

- An itemized statement of the student's authorized expenses,
- Certification that the student is registered for sufficient hours of regular scholastic work to be considered a full-time student, and
- Certification that the student has maintained the requisite GPA or higher for the first year and the requisite GPA each year thereafter.

At least annually, either through your Board or a Board-appointed committee, you shall review all records and reports submitted to you by the participant institutions and determine if there has been compliance with your guidelines. Special attention shall be paid to all disbursement of funds and the origin and nature of the costs reimbursed by you for the recipient. Should any irregularity be determined, you shall require from the individual institution(s) and individual recipient(s) sufficient additional reports to clarify the actual situation. Should it be determined at any time that any recipient or institution has used funds for any purposes other than eligible expenses, you may, in your complete discretion, suspend any further payment to that institution and/or recipient until (1) such funds are in fact restored to you, (2) the recipient institution demonstrates precaution will be taken to prevent future diversions from occurring, and (3) the recipient institution and the recipient give written assurance that future diversions will not occur.

You will maintain records of (1) all information secured to evaluate the qualification of potential recipients, (2) identification of all recipients including their full name, school, date of graduation, and parents' names and address, (3) a record of all disbursements made under the program for each recipient and the institution to which payment has been made, and (4) all information received from institutions of higher learning as to the recipient's scholarship progress and expenditure of funds. These records shall be maintained for four years after the recipient completes four years under the grant.

You shall have final authority to establish and revise the guidelines governing the scholarship award. You shall appoint an advisory committee consisting of      members of your Board and at least one educator from each school, who shall review these guidelines and recommend such changes as may be needed from time to time to

accomplish the purposes of the scholarship program, which are to encourage and recognize scholarship among the students of C and D and to assist exceptional students in obtaining a quality education at the college or university of their choice.

Any disputes arising at any time and for whatever reason by and between (i) a student, a nominee and/or a recipient, and (ii) the nominating committee, the awards committee and/or you, shall be unilaterally resolved in the sole and absolute discretion of your Board.

#### **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.

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: