



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

Date: 08/10/2022

Taxpayer ID number:

Person to contact:

Name:

ID number:

Telephone:

Number: **202244034**

Release Date: 11/4/2022

## LEGEND

B = State

C = Number

y dollars = 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. 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 scholarship program for graduating high school seniors in the state of B for study at educational organizations described in IRC Section 170(b)(1)(A)(ii). You will focus your program on schools of color or to those in underserved communities. The purpose of the award is to increase access to education.

You intend to award scholarship grants in the range of y dollars on an annual basis, with up to C grants awarded per year. The scholarships may be for one year (non-renewable) or four years (renewable). Generally, the scholarships are provided on a one-time basis to enable you to provide an annual scholarship at the school.

You initiate the grant process by sending a letter to a local high school or a state-wide sport association. The letter indicates you wish to provide a scholarship to a graduating senior with plans to attend a four-year college or university. The scholarships may be for one year (non-renewable) or four years (renewable). The letter indicates the high school or the state-wide sport association scholarship committee will be responsible for selection of the scholarship recipient and for notifying you of the name of the recipient.

The high schools and the state-wide sport associations are responsible to publicize the scholarships. The scholarships will be publicized on their internet and media available to students.

You provide general selection parameters to each scholarship committee, such as academic performance. Other selection parameters may include:

- Student of color
- First-generation college student
- Involvement in athletics
- Leadership
- Extracurricular activities
- Community involvement
- Prior work experience
- Certain type of degrees, for example, a degree in food science or business

Each scholarship committee is not required to use these selection parameters as their only criteria or may select a recipient who is other than a first-generation college student or student of color.

The scholarship committee at each high school selects recipient for a scholarship. The college or career counseling office at the high school and is responsible to administer and coordinate the application and selection process. The scholarship committee is responsible for notifying you of its selection by providing the student's name, contact information, and the name of the educational institution. The high school scholarship committees are made up of a variety of school personnel, counselors, teachers, vice principals and other similar personnel.

In situations where you provide an athletic scholarship, the scholarship committee is made up of coaches from around the state as well as administrators from the athletic association.

Selections are made in early June and a presentation will be made to the student just as they are graduating. Your representative may attend the senior awards assembly to be a part of the scholarship award ceremony.

You require the recipients to do the following:

- Send a \_\_\_\_\_ email or letter to you within 1 month of \_\_\_\_\_ of the award
- Provide proof of acceptance and enrollment in an accredited educational institution
- Provide a final grade transcript from his/her high school to verify high school graduation
- Communicate if there is a change in his/her status at the school
- Provide grade transcripts each year
- Send an impact letter at the end of each school year
- For renewable scholarships, proof of enrollment for the next academic year

For scholarships that are renewable, the recipient must stay enrolled, be in good standing at the educational institution, and maintain certain academic performance.

You will write a check directly to the recipient's educational institution. Along with the check, you will instruct

the educational institution that the fund is only for a full-time enrollee and fund should be returned if the recipient is not enrolled on a full-time basis.

Relatives of members of the selection committee, or of your officers, directors or substantial contributors are not eligible for awards.

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