



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

Date:
11/21/2022
Taxpayer ID number:

Person to contact:

Release Number: 202307008
Release Date: 2/17/2023

LEGEND
X = State of Formation

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. You were formed in the state of X. You will award scholarships to students that are vetted by your selection committee and selected by your Board of Directors. Applicants are required to submit an application form and supporting materials you deem appropriate.

Your staff and designated members of your awards selection committee will work with various high school, college and graduate school administrators as well as managers of other relevant community institutions to advertise the availability of the scholarship. You will request that these administrators and institutions nominate potential candidates or encourage potential awardees to submit applications for the scholarship.

You will appoint all members of the selection committee charged with the evaluation of candidates for scholarships. Appointments will be made by your Board of Directors.

Selection committee members will adhere to your policies as they may be adopted and amended from time to time, including a conflict of interest and confidentiality policy. They will be obligated to disclose any personal knowledge of and relationship with potential grantees under consideration. They will refrain from participation in the award process where he or she would derive a private benefit if any potential grantee or grantees are selected over others. No scholarship will be awarded to your Board of Directors, any substantial contributor, any employee, or any other disqualified person as defined in IRC Section 4946(a) with respect to you.

The selection committee shall forward its recommendations to your Board of Directors, who will select and approve each award.

The following criteria will be used to select recipients of the scholarship:

- financial need of the applicant,
- financial need of the applicant's immediate family,
- explanation of the applicant's need (based on a 2-page essay that the applicant will write),
- applicant's character (based on 3 letters of recommendation),
- a description of measures taken by or in behalf of the applicant to provide for the applicant's needs outside of this scholarship,
- applicant's academic credentials (high school transcripts and transcripts from post-secondary institution(s) they may have attended),
- a copy of their high school diploma or equivalent verification of high school graduation or GED completion.
- prior academic performance, performance on tests designed to measure ability and aptitude for educational work,
- recommendations from instructors of such applicant and any others who have knowledge of the applicant's capabilities,
- additional biographical information regarding an applicant's career,
- academic and other relevant experiences, and
- conclusions which the grant selection committee may draw as to the applicant's motivation, character, ability, or potential.

Criteria may also include the applicant's place of residence, self-induced efforts made to provide opportunities for the applicant himself /herself, or other special talent. Preference may be given to applicants of a particular sex, race, ethnic background or religion so long as such preference does not violate public policy.

Recipients of Scholarship Grants must be

- a) undergraduate students at a college or university who are pursuing studies or conducting research to meet the requirements for an academic or professional degree or
- b) students who receive a scholarship for study at an educational institution that provides an educational program acceptable for full credit toward a bachelor's or higher degree, or offers a training program to prepare students for gainful employment in a recognized occupation and is authorized under federal or state law to provide such a program and is accredited by a national recognized accreditation agency and all scholarships must be used for tuition and related expenses at an educational institution.

You reserve the right to impose additional, minor reasonable restrictions and/or requirements upon the awarding of Scholarship Grants and the administration of such grants. Any material changes will be made only with approval of your Board of Directors.

You will provide each scholarship recipient with a letter notifying him/her of the scholarship and specifying that all amounts must be used exclusively for tuition, fees, books, supplies, and equipment required for courses, or for room and board expenses payable to the institution. You will inform the student that no funds will be disbursed until you receive confirmation that the student is enrolled in an educational institution, at which time the funds will be disbursed to the school. The letter will describe the reporting requirements and will specify the date when the recipient must comply with the annual reporting requirements. The recipient will be required to sign and return a copy of the letter indicating his/her acceptance of the scholarship.

All tuition payments will be made to the institutions that the recipients will be attending. Any additional monies will be paid to the students upon confirmation that the student is attending the institution. Any recipient who receives funds from the scholarship program and does not finish the "scholarship period" (defined as the period of time for which the scholarship is given, i.e., semester, term, etc.) must pay back a pro rata portion of the scholarship monies unless you decide otherwise.

Each scholarship will be paid directly to the educational institution for the use of the scholarship recipient. Each educational institution must agree in writing to use the funds to defray the recipient's expenses or to pay the funds (or a portion thereof) to the recipient only if the recipient is enrolled and his or her standing at such educational institution is consistent with the purposes and conditions of the scholarship.

Each scholarship will be used only for qualified tuition and related expenses and for room and board. The scholarship can be used only for: (1) tuition and fees required for the enrollment or attendance of the student at a qualifying institution; (2) fees, books, supplies, and equipment required for courses of instruction at such an educational institution; and (3) room and board. No part of the scholarship shall be used as payment for teaching, research, or other services by the scholarship recipient required as a condition for receiving the scholarship.

If a scholarship is paid to a person other than the educational institution or if the scholarship is used for expenses other than qualified tuition and related expenses, you will receive a report on the progress of each recipient of such a scholarship at least once each year. The report must include a summary of the use of the funds awarded, the courses taken, and the grades received in each academic period. This report must be verified by the educational institution. A final report is also required.

If all or any part of a scholarship grant is not being used in furtherance of the purposes of such scholarship, you will investigate. While conducting your investigation, you will withhold further payments until any delinquent reports required have been submitted and until you receive assurances from the grantee that future diversions shall not occur, and they will take precautions to prevent future diversions from occurring. You will take all reasonable and appropriate steps to recover the funds and ensure restoration of the diverted funds to the purposes of the scholarship.

Where a grantee has previously diverted funds and you determine that any part of a grant has again been used for improper purposes, you will take all reasonable and appropriate steps to recover the funds and/or ensure restoration of the diverted funds. You will withhold further payments until: (1) the diverted funds are recovered or restored; (2) you received the grantee's assurances that future diversions will not occur; and (3) the grantee takes precautions to prevent future diversions from occurring.

The phrase "all reasonable and appropriate steps," as used above, shall include legal action where appropriate, but need not include legal action if such action would in all probability not result in the satisfaction of execution on a judgment.

You will retain the following records in connection with all scholarships; information obtained by you to evaluate the qualifications of potential grantees, the identification of grantees (including any relationship of any grantee to you or to your directors or officers), the purpose and amount of each grant, and any additional information you obtained in complying with your grant administration procedures.

Scholarships will be awarded for a one-year period but may be for a shorter or longer period. It may be renewable for a period appropriate to the purposes of the scholarship under which the award is established. You may consider renewing a scholarship on a case-by-case basis according to the status of the grantee's project and the purposes of the scholarship.

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
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