



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

Date:  
04/24/2023  
Taxpayer ID number:  
  
Person to contact:

Release Number: 202329012  
Release Date: 7/21/2023

UIL: 4945.04-04

**LEGEND**

B = company  
C = bank  
D = city/state

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. An external service, B, will facilitate and provide administrative support in servicing the scholarship. They will work with your trustee, C, in doing so. B will prepare a marketing plan specific to the scholarship to include a personal contact with the school(s) or other contacts who will receive the promotional materials, and to discuss the most appropriate method(s) to reach the students. School contacts will receive an annual letter, with notification of important program dates, a FAQ document which contains all the relevant program information, as well as program marketing materials. Program marketing can include flyers, scholarship information sheets, public announcements, and postings with

a list of available scholarships. All marketing materials will be reviewed and approved by C's scholarship administrator prior to sending.

B will follow up with C if sufficient qualified applications have not been received within three weeks of the dateline to discuss adding to or expanding the marketing plan in order to reach additional qualified candidates.

B will advise students if their applications are incomplete and more information is required. C will also be advised of incomplete application within three weeks prior to the application dateline. Incomplete applications that are completed within two weeks of the application deadline may be accepted in the discretion of the trustee or external selection committee, as applicable.

The online application and information pertaining to the application process will be available at C's website. The online application date ranges between February and May of the current funded year.

The initial selections will be based on the eligibility criteria as follows: (a) a graduating senior or graduate of a high school in D, (b) demonstrate financial need, (c) be in good academic standing, and (d) be planning to attend full-time at an accredited college, university, technical, trade or professional school, located in the United States.

C has sole discretion to select scholarship recipients and determine scholarship amounts. You will review the scholarship candidates and provide C with recommendations and a ranking spreadsheet.

The following applicants/recipients are ineligible to apply for or receive any scholarship from your organization under any circumstances:(a) any Interested Person (which term includes, for the purposes of this document, any donor, trustee, selection committee member, advisory board member, your staff members, and those otherwise deemed to be "disqualified persons" under the Internal Revenue Code), (b) the spouses and ancestors of Interested Persons, (c) the children, grandchildren, and great-grandchildren of Interested Persons, (d) the spouse of any child, grandchild, or great-grandchild of an Interest Persons, and (e) current employees of B and C and their spouses, ancestors, children, grandchildren, great-grandchildren and the spouses of such children, grandchildren, and great-grandchildren.

B will review the applications and identify applicants who do not meet the eligibility requirements. Information for ineligible candidates will not be provided to the committee.

B shall give consideration to the respective ability, academic merit, educational goals, career ambitions, and the relative financial need of the applicants. This is a competitive scholarship program. Scholarships shall be awarded on an objective and non-discriminatory basis, with neither race, creed, color, sex, age, religion, national origin nor disability being considered. Selections are based on information received from the application and the additional materials received by the deadline. B will select two or three alternative recipients. Decisions of C are final and justification for recipient selection(s) by B or C will not be disclosed under any circumstances.

Once final approval has been given by C, B will send award letters to the recipients with detailed information about the scholarship. Candidates not selected to receive awards will also be notified by B via email.

The recipients may attend any accredited college, university, technical, trade or professional school, located in the United States, in any field of study leading to a degree, diploma or certificate, provided the institution meets the criteria in the following paragraph. Recipients must be enrolled full-time each semester and working towards a certificate, undergraduate, graduate, post-graduate degree, etc.

The number of recipients and the amount of each scholarship may vary from year to year due to fluctuations in the Fund's value and/or applicable document restriction. Renewal of a scholarship award is not guaranteed. Subject to the trust terms, the awards will be applied to the cost of tuition, fees, books and supplies, and should not exceed these costs. Scholarship awards must be used in the year they are awarded.

The scholarship is for one year only. However, current recipients may reapply and be considered for additional funding along with other new application. Scholarship recipients must be enrolled full-time. Scholarship recipients are limited to four years of scholarship award and are expected to have been enrolled consecutive years during that time. The recipients are not guaranteed a scholarship, and scholarship amounts are not guaranteed.

In the event of serious malfeasance, breach of educational institution's Student Code of Conduct, failure to provide requested materials, or conduct involving moral turpitude, a scholarship may be terminated at any time within the discretion of C, whose decision shall be final and binding. At the close of each annual scholarship, B will provide a completed Summary Report.

#### **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.

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