



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

Date: 06/05/2023

Taxpayer ID number:

Person to contact:

Name:

ID number:

Telephone:

Release Number: 202335017

Release Date: 9/1/2023

UIL: 4945.04-04

## LEGEND

X = Scholarship Program

Y = City, State

b dollars = \$

C = Number

Dear :

You asked for advance approval of your scholarship procedures under Internal Revenue Code (IRC) Section 4945(g)(1) and advance approval of your educational grant procedures under IRC Section 4945(g)(3).

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.

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 provide in IRC Section 117(b)).

We also approved your procedures for awarding educational grants. Based on the information you submitted, and assuming you will conduct your program as proposed, we determined that your procedures for awarding educational grants meet the requirements of IRC Section 4945(g)(3). As a result, expenditures you make under these procedures won't be taxable.

### **Description of your request**

Your letter indicates you will operate a program named X to make scholarship or fellowship grants to individuals for their studies or research projects in various academic fields, including travel, room and board, or similar purposes related to their educational attainment. The purpose of any scholarships, fellowships or grants will be to invest in the education of individuals attending academic institutions or enrolled in vocational training, further scholarship in various academic areas, and provide financial assistance to students, including

low-income students, seeking to break the cycle of poverty.

You indicated that the grant amounts will be between b dollars, and you will grant approximately C awards per year.

You will advertise the program by providing the grant criteria and application to other non-profit organizations that engage with a broad charitable class of applicants within the local community.

You anticipate the pool of eligible candidates to include individuals attending academic institutions or enrolled in vocational training or further scholarship in various academic areas who require financial assistance and who are not disqualified persons. There will be no limitations or restrictions in the eligibility criteria or procedures based on race, religion, national or ethnic origin or other illegally discriminatory criteria. You indicated that initial applicants will likely reside in or around the Y region, but also anticipate the geographic reach may be broader in subsequent years. There are no restrictions on the number of applicants; all persons who submit proposals or applications of substance will be considered.

To select grant recipients, the Scholarship Selection Committee will consider the proposed project or course of study, prior scholarship or community achievements, financial need, and any other qualifications deemed by the Board to be relevant to the objectives of the grants. There will be no limitations or restrictions in the selection criteria or procedures based on race, religion, national or ethnic origin, or other illegally discriminatory criteria.

Additionally at this time, there is no minimum GPA required for selecting recipients, but the Scholarship Selection Committee plans to evaluate applicants based on the following criteria: (i) demonstrated academic performance (including high school and college transcripts, where applicable); (ii) teacher recommendations, (iii) work experience, especially in support of their academic course of study or in support of the existing family financial obligations; (iv) financial need, specifically a demonstrated "economic gap" in the money required to support the applicant's course of study and the tuition/related expenses being charged by the educational institution (including any other loans or scholarships earned); and (v) the applicant's answers to a series of essay topics included on the X Application.

The Scholarship Selection committee will determine financial need by considering the following criteria: (i) annual income of the applicant's family and the family's ability to support both the applicant's educational goals as well as other financial obligations for additional family members; and (ii) a demonstrated "economic gap" in the money required to support their course of study and the tuition/related expenses being charged by the educational institution (including any other loans or scholarships earned). At this time, you have not established a preset financial threshold for qualification but instead will consider the above-mentioned criteria in light of the entire application.

The Selection Committee will be comprised of at least two (2) members of your Board who commit to participate in the selection process, which may include reviewing proposals, academic records and application materials (such as essays) and interviewing candidates.

Relatives of members of the selection committee, or of your officers, directors, or substantial contributors are not eligible to apply for scholarships or grants.

The funds will be distributed either directly to the educational institution or directly to the recipient in cases when the Scholarship Selection Committee determines direct receipt of funding is more beneficial to the applicant, in light of the entire application. You will not require recipients to perform any services after receiving the grant.

Prior to disbursement of funds, scholarship recipients will be required to agree in writing to submit reports to you on a regular basis. You will monitor and evaluate recipients' use of funds using these reports and may interview recipients about the progress of their research or studies. Any apparent misuse of funds will be promptly investigated, and further disbursements, if any, will be held until the completion of any investigation. Recipients will be required to immediately return funds that you determine have been improperly used.

You will require that recipients interested in renewing a scholarship, fellowship, or grant continue to demonstrate there is a financial need for their enrollment in an academic institution or vocational course. Grants may be renewed on a case-by-case basis, dependent upon the availability of funds and at the Board of Director's discretion.

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.

IRC Section 4945(g)(1) Requirements:

- 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).

**IRC Section 4945(g)(3) Requirements:**

- 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 IRC Section 117(a) and is to be used for study at an educational organization described in IRC Section 170(b)(1)(A)(ii).
  - A prize or award subject to the provisions of IRC Section 74(b), if the recipient of the prize or award is selected from the general public.
  - To achieve a specific objective; produce a report or similar product; or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar skill or talent of the recipient.

To receive approval of its educational grant procedures, Treasury Regulation Section 53.4945-4(c)(1) requires that a private foundation show:

- The grant procedure includes an objective and nondiscriminatory selection process.
- The grant procedure results in the recipients performing the activities the grants were intended to finance.
- The foundation plans to obtain reports to determine whether the recipients have performed the activities that the grants were intended to finance.

**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