



Date:
11/13/2023
Taxpayer ID number:

Person to contact:

Release Number: 202406015
Release Date: 2/9/2024

LEGEND

UIL: 4945.04-04

B = Name
C = Name
G = Number
x percent = Number

Dear :

You asked for advance approval of your employer-related scholarship procedures under Internal Revenue Code Section (IRC) 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 employer-related scholarships. Based on the information you submitted, and assuming you will conduct your program as proposed, we determined that your procedures for awarding employer-related 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 provided in IRC Section 117(b)).

Description of your request

Your letter indicates you will operate a scholarship program for the children of employees of B to attend a two- or four-year postsecondary educational institution. The purpose of the scholarship is to assist students defray the costs of higher education. To promote the scholarship, you will distribute information via B's internal intranet system and will email B employees.

Concerning the dollar amount of the scholarship, your board of directors has designated a portion of your overall assets to be segregated. Each year you will distribute x percent of the portion to eligible applicants. The amount distributed will be based on the number of applicants selected to receive a scholarship and the portion of the available funds. You will determine the number of scholarships awarded based on the following (1) number

of qualified applicants (2) number of individuals eligible to apply and (3) the application of the percentage test under Revenue Procedure 76-47.

To apply for a scholarship, applicants must:

- Be a child or stepchild of an employee of B with the employee having a minimum of two consecutive years of full-time employment with B,
- Be current a high school senior who plans to enroll in or a high school graduate who is enrolled in a 2 or 4 year accredited educational institution,
- Have a current minimum GPA of G, and
- Have received an award from you for three years or less.

All applicants must submit a new application each year for up to four years. If an applicant has received an award in a prior year and their parent is no longer employed by B the applicant will remain eligible to apply and receive a scholarship provided that the applicant has met the remaining application criteria.

Recipients will be selected by a _____-member selection committee who will be chosen by your board of directors. Selection committee members are to be knowledgeable in the education field and have a post-secondary degree. It is recommended but not required that the selection committee members have experience in the financial services industry.

The selection committee members cannot be:

- Current or former B board members or your board members,
- Current or former employees of you or B, and
- Related to (spouse, ancestor, children, grandchildren, stepchildren, or step grandchildren) current or former B board members or your board members.

Further, no relative of members of the selection committee, or of your officers, directors, or substantial contributors are eligible for the scholarship program.

In addition, you may in your discretion fulfill the role of the selection committee by engaging a scholarship consultant. Currently, you will engage C, an independent IRC Section 501(c)(3) organization to satisfy the duties of the selection committee. C will create the application, review applications, select award recipient(s) and distribute awards. C will ensure that any individual selected to administer the scholarship will not be current or former B board members or your board members and will not be related to B board members or employees or your board members or employees.

The selection committee will select recipients based upon the following criteria (1) academic record (2) participation in school and community activities (3) honors and awards received (4) work experience and (5) submission of an essay on the topic determined each year by the selection committee.

You will pay scholarships jointly to the recipient and their educational institution.

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 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).

Revenue Procedure (Rev. Proc.) 76-47, provides guidelines to determine whether grants a private foundation makes under an employer-related program to employees or children of employees are scholarship or fellowship grants subject to the provisions of IRC Section 117(a). If the program satisfies the seven conditions in sections 4.01 through 4.07 of Rev. Proc. 76-47 and meets the percentage tests described in Section 4.08 of Rev. Proc. 76-47, we will assume the grants are subject to the provisions of IRC Section 117(a).

You represented that your grant program will meet the requirements of either the 25% or 10% percentage test in Rev. Proc. 76-47. These tests require that:

- The number of grants awarded to employees' children in any year won't exceed 25% of the number of employees' children who were eligible for grants, were applicants for grants, and were considered by the selection committee for grants, or
- The number of grants awarded to employees' children in any year won't exceed 10% of the number of employees' children who were eligible for grants (whether or not they submitted an application), or
- The number of grants awarded to employees in any year won't exceed 10% of the number of employees who were eligible for grants, were applicants for grants, and were considered by the selection committee for grants.

You further represented that you will include only children who meet the eligibility standards described in Rev. Proc. 85-51, when applying the 10% test to employees' children.

In determining how many employee children are eligible for a scholarship under the 10% test, a private foundation may include only those children who submit a written statement or who meet the foundation's eligibility requirements. They must also satisfy certain enrollment conditions.

You represented that your procedures for awarding grants under this program will meet the requirements of Rev. Proc. 76-47. In particular:

- An independent selection committee whose members are separate from you, your creator, and the employer will select individual grant recipients.
- You will not use grants to recruit employees nor will you end a grant if the employee leaves the employer.
- You will not limit the recipient to a course of study that would particularly benefit you or the employer.

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 is in effect if your procedures comply with Sections 4.01 through 4.07 of Revenue Procedure 76-47 and either of the percentage tests of Section 4.08. If you establish another program covering the same individuals, that program must also meet the percentage test.
- 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

cc: