



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

Date:
11/13/2023
Taxpayer ID number:

Person to contact:

Release Number: 202406020
Release Date: 2/9/2024

LEGEND

B = Name
C = Name
D = Names
E = Numbers
G = Number
H = Dates
x dollars = Amount

UIL: 4945.04.04

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 competitive scholarship program for dependents, of B full-time employees to obtain a 2-year or 4-year post-secondary education. Specifically, this is an annual program providing financial support to dependents of employees of B to continue their undergraduate studies at a two-

year or four-year college, university, or vocational school of their choosing. The scholarships will help cover tuition, fees, books and required supplies and are not renewable. Your scholarship program is managed by C, an independent IRC Section 501(c)(3) organization.

Scholarships are for x dollars, and you expect this amount will remain consistent, though you will adjust the amount based on cost of living and inflation in subsequent years. The number of scholarships provided may vary from year to year but will be consistent with the requirements set forth in Rev. Proc. 76-47 as amended. 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 applied). You will determine the number of eligible dependents by verifying the number of dependents between the age of E, enrolled as dependents through employee benefit programs, such as health and dental insurance. B has more than G employees as of the end of last year.

You will publicize the program to all employees of B via email communication, printed newsletter, C's website, and at B company meetings. In some geographic areas, depending on availability, you will provide a list of available scholarships through a district education foundation. You will also send scholarship information by postcards in three languages directly to employees' homes.

To be eligible for a scholarship, the student must be a dependent of an employee of B between the age of E, and attending a two-year or four-year college, university, or vocational school of their choosing. Other criteria include that the student must show academic achievement, leadership, school involvement and financial need. Children of employees of D are not eligible to apply for scholarships. Further, no relative of members of the selection committee, or of your officers, directors, or substantial contributors are eligible for the scholarship program.

To apply for a scholarship, the student must submit the online application, provide an online recommendation from an unrelated person and provide a copy of their transcripts. The application must be submitted between the dates of H.

Scholarship recipients will be selected by a selection committee provided by C and, accordingly, will be totally independent of you and B. Scholarship recipients are selected based on merit and financial need. The selection committee will review and evaluate the following to determine the recipient:

- The online application
- The online recommendation
- Most current transcript
- GPA and class rank
- SAT or ACT standardized test scores
- FAFSA report

Specific selection criteria used by the selection committee will include academic performance, demonstrated leadership and participation in school and community activities, work experience, the statement of career and educational goals and objectives, unusual personal or family circumstances and financial need.

C will notify selection decisions via email to all applicants in early spring of that year. C will then disburse payments on your behalf directly to the recipient's institution in mid-summer after registration and matriculation are verified. C will also maintain scholarship application history and recipient records for you.

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.

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