



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

Date:  
01/10/2024  
Taxpayer ID number:  
  
Person to contact:

Release Number: 202414012  
Release Date: 4/5/2024

LEGEND

B = City, State  
C = Employer  
D = University  
E = Number Range  
F = Number  
G = Foundation  
x dollars = Dollar 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 scholarship program for residents of B attending any two-or four-year institution providing a vocational, undergraduate, or graduate degree. You will give preference to current or retired employees of C, or their dependents, including children, grandchildren, step-children, or individuals under legal guardianship; and students attending D pursuing a degree in culinary arts or food service.

You estimate the potential number of applicants is between E. Of those eligible, you will select approximately F scholarship recipients annually. The general supervision of the scholarship will be undertaken by G. Scholarships will be awarded by G and are not renewable. Recipients need to apply annually to receive an award. Scholarships in the amount of approximately x dollars, will be paid directly to the educational institution to defray the recipients' educational expenses.

You will publicize your program through G's website, and through your social media and traditional media outreach. G will also participate in statewide and local college fairs and outreaches to present about your scholarship program.

To be eligible for a scholarship, recipients must be a resident of B attending any two- or four-year institution pursuing a vocational, undergraduate, or graduate degree.

Your selection criteria will include academic performance, financial need, and B residency. You will consider the students Free Application for Federal Student Aid (FAFSA) and/or financial circumstances that differentiates students from their peers. This includes a sudden decrease in household income, an unexpected increase in household expenses, or if two or more household members are attending post-secondary school at the same time. You do not have a specific threshold for qualification.

G will choose the independent selection committee members who will select the awardees. Relatives of members of the selection committee, or of officers, directors, or substantial contributors are not eligible for scholarships funded by you.

The availability of your program will not be used to recruit new employees, to induce current employees to stay, or to encourage employees to follow a course of action sought by C. A scholarship cannot be terminated because of changes to the employment status of the recipient or their parent.

You will not give preference to applicants pursuing degrees that would be of particular benefit to you or C. Preference is given to students pursuing a degree in culinary arts, but this is not a degree that is of benefit to C, which is a food distributor. C does not operate restaurants or other businesses that would directly benefit from students pursuing degrees in culinary arts or food service.

Scholarships are not conditioned on students pursuing any specific course of study, and the recipient has free choice to use the scholarship in the pursuit of any course of study. The preference for culinary arts or food service is merely a preference and not a requirement.

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, Letter 4792 (Redacted)