



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

Date: 02/15/2024

Taxpayer ID number:

Release Number: 202419026  
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Person to contact:  
Name:  
ID number:  
Telephone:

UIL: 4945.04.04

#### LEGEND

B = state  
C = organization  
D = foundation E  
= company  
y dollars = amount  
x dollars = amount

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.

You also 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

Your letter indicates you will operate two scholarship programs. The first will provide scholarships to B high school senior student athletes enabling them to pursue educational and vocational opportunities after high school. You intend to focus on high-achieving high school students displaying high achievement in academics, athletics, and community involvement.

Four B high school student-athletes will be selected to receive one of the following scholarships:

First Place Prize: y dollars scholarship awarded to one male and one female student- athlete.

Runner-Up Prize: x dollars scholarship awarded to one male and one female student- athlete.

You may choose to alter the amount of each award in the future. The awards are only available to graduating

second semester high school seniors. Students cannot apply for a renewal of the scholarship. Scholarship checks from you are sent directly to the student's financial aid office where they are deposited into the students' accounts and are used for tuition and other academic-related fees.

You currently publicize via word of mouth, your website, through the schools in the state of B, in-store marketing, and various media which may include social, radio and print. Applications are available through your website.

An applicant must be second semester senior who has participated in a C sanctioned sport during his or her high school career. Applicants must have a cumulative grade point average of at least 3.5 on a 4.0 scale. Grades earned through the most recently completed grading period should be used. Applicants must be able to attend the B Sports Awards event held in B and be a college bound student. The educational institution must be accredited, either by the Accrediting Council of Independent Colleges and Schools (ACICS), or by the North Central Association of Colleges and Schools. Applicants must consent to be photographed, audio recorded and/or video recorded, and all photographs, audio recordings and video recordings become the property of E. A publicity release form will be required to be signed by all finalists. If the applicant is under the age of 18, an adult must sign on his/her behalf.

You will use criteria such as athletic and academic performance, application essays, location of the student and letters of recommendation as criteria for determining who will receive scholarships.

Applicants are required to submit an official copy of transcripts from an accredited educational institution. As all applicants are second semester seniors, you do not follow up after funds are paid directly to the educational institution, to be applied to the student's account. You verify that the student is enrolled in the educational institution and then send the payment to the school directly noting the student's ID. If the terms of the grant are violated, the recipients continued involvement with the program will be discussed among board members.

The scholarship final selection committee is comprised entirely by the board members of the E.

The second scholarship you will award is to students that are employees of E restaurant that seek financial assistance in furthering their education at accredited educational institutions, regardless of whether that education leads said employee out of the E organization. The educational institution must be accredited by either the Accrediting Council of Independent Colleges and Schools or by the North Central Association of Colleges and Schools.

You have established an independent selection committee for this program. The committee is comprised of responsible community and business leaders that have experience and interest in education. Each member is independent of D and E and is tasked with the responsibility to make independent, unbiased decisions in the selection process. The committee members are approved by D's trustees, who are responsible for ensuring that the committee members act without bias in their selection. The selection committee has full discretion for selecting applicants to receive scholarships. You do not limit your employee scholarship recipient to any course of study that would particularly benefit you or E. You also do not terminate or revoke the scholarship if the employee leaves E. Payments are made in a lump sum directly to the educational institute and you cannot recover the funds once paid.

You require applicants to complete an online application similar to the application required for your other scholarship. Applicants must have at least six months of work experience at E restaurant to qualify. Applicants must also describe their academic and career goals in their applications and answer three essay questions related to E company values and mission. Scholarships are given in the amount of x dollars for each recipient. The procedure for receipt of funds for employee scholarships are identical to the previous scholarship mentioned.

For your employer related scholarship described herein please see the Revenue Procedures 76-47 and 85-51 below.

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 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).
- 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/loan] 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: