



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

Date:  
09/14/2022  
Taxpayer ID number:  
  
Person to contact:

Release Number: 202249020  
Release Date: 12/9/2022

UIL: 4945.04-04

**LEGEND**

B = Scholarship Program  
C = Foreign Companies  
D = Foreign Countries  
F = Organization  
G = Website  
y dollars = \$

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 an employer-related B, the procedures of which you have previously obtained advance approval. B will continue to operate as originally approved, but will be expanded to include children of employees of companies located outside of the United States. Specifically, you will provide tuition assistance to students of C companies who reside in the countries of D. Additional companies may be added in the future, but all children of all employees will be subject to the same requirements as are the children of employees of C companies.

Scholarship amounts for international students will be adjusted, almost universally downward, to reflect the lower educational costs in countries other than the United States. Prior to payment of international awards, all parties will be verified with F to confirm that none of the individuals or entities involved have been identified as supporting or engaging in terrorist activities.

B is designed to assist students of promise with financial aid to receive an education of their choice. Dependent children whose parents are active employees who have a minimum of \_\_\_\_\_ continuous service as of the grant application due date are eligible. Dependent children who are eligible include children, stepchildren, legally adopted children, or children under the legal guardianship of the employee.

You publicize B through written and posted announcements to employees, emails and a website at G. To apply, an individual provides proof of dependency, evidence of full-time enrollment, and grades from previous semester. Recipients are selected based on their academic performance.

A maximum annual award of y dollars will be granted. This may be increased in the future as costs increase. The number of grants will be limited by Revenue Procedure 76-47. Awards will be granted with first preference to undergraduate students enrolled at an accredited trade school, college, or university based on academic standings (GPA). If additional grants are available, the selection committee will consider first students pursuing post-graduate studies and then students beginning in Grade 12 or Secondary descending to Pre-Kindergarten or Primary. All grants awarded will be based on objectively determined academic criteria and the student must document progress toward a degree or diploma to be eligible for future grants.

The grant recipient must be enrolled full-time, and the classes selected must enable the recipient to work towards a degree or diploma. There is no restriction or requirement on the subject matter of the degree. Students must provide evidence of enrollment in an accredited trade school, college or university. Higher education recipients must include evidence of full-time status as it is defined by the individual school. Documents from the education institution must be provided reflecting the number of credit hours and academic standing. Students will be placed on probation if they do not complete the prior semester's full-time courses with a minimum 2.5 GPA. Students will not be eligible for a subsequent semester's funding until such time as they complete a semester with full-time status and the minimum GPA. All payments will be made jointly to the grant recipient and the school. You will seek to recover funds improperly utilized.

Members of the scholarship selection committee are persons totally independent from you and the C companies and have demonstrated expertise in academic affairs. Under the enabling resolution adopted by your board, in the event of vacancies on the selection committee, by reason of the death, resignation or incapacity of a member of the selection committee, the remaining selection committee members shall nominate for approval by your board one or more persons possessing the qualifications set forth above to fill such vacancy. Individuals eligible include persons knowledgeable in the education field by reason of background, professional training, advanced degree, and otherwise. Members of your board, shareholders of the C companies and its board and employees or former employees of either you or the C companies are ineligible for membership on the selection committee.

You represent that B 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.

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