



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

Date: 03/13/2023

Taxpayer ID number:

Person to contact:

Name:

ID number:

Telephone:

Release Number: 202323015

Release Date: 6/9/2023

## LEGEND

UIL: 4945.04-04

W = Scholarship Program

X = Company

Y = Family

b = G.P.A.

c = Amount of Financial Aid

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 tuition scholarship grants to individuals for study at one of the following, a two-year junior college, seeking an associates degree, a four-year college seeking credits toward a bachelor's degree, or a trade/technical school. The purpose of the scholarship grant is to obtain higher education. You provide one grant, per academic year, for each applicant the independent selection committee determines is qualified applicants. The name of your scholarship is the W.

You are a family foundation, established by Y. You do not regularly receive contributions from X, which is owned by Y.

Your scholarship grant is publicized through your related employer, X. X distributes information regarding the program through flyers, emails, electronic announcements, and word-of-mouth to children of X employees.

Your independent selection committee consists of person(s) who are not officers, directors, employee (or individuals formerly holding any of these positions) of X or disqualified persons.

Your independent selection committee selects recipients based on weighted criterion of scholastic attainment, financial need, and citizenship. Your minimum standards are: b GPA, minimum c dollars in financial aid, and must be involved in at least two community or school sponsored outside activities. Applicants must be children or stepchildren of; current X employees who have been full-time for the two years immediately prior to the annual application date; or deceased employees of X who were full-time employees in good standing at the time of their death. Applicants must be enrolled in a minimum of 12 credit hours per semester.

Each applicant must submit a scholarship grant application, academic transcripts, a description of community service activities, and individual tax returns for the applicant and their parents to assess financial need. In any year, the independent selection committee determines no applicant meets the criteria for selection, no scholarship grant will be awarded.

You will pay the scholarship grant directly to the applicant's college, university, or technical school upon receipt of the tuition bill.

The applicant would be required to reapply for the scholarship grant each year he/she would like to be considered.

You do not have a predetermined number of scholarship grants available for any academic year. You do not know the number of employees of X whose children may be eligible or the total number of eligible applicants. You do not limit awards to a specific number or percentage of applications received. The independent selection committee reviews all applications and recommends the award of scholarships to as many applicants as meet the objective selection criteria. You award the scholarship grant based on the independent selection committee's recommendations to the extent of your ability to fund those recommendations. You will take affirmative steps should the scholarship grant be diverted from their intended purpose by having the educational institution investigate. You will then recover said funds and withhold any further scholarship grant funds until you are assured the future funds will not be diverted.

#### **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.
- The effective date of our approval is \_\_\_\_\_, which is the date your request was submitted.
- 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