

Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Department of the Treasury

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Contact person - ID number:

Contact telephone number:

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LEGEND

g dollars = Amount
P = Scholarship Program
Q = Scholarship Program Administrator
X = Grant Making Program
Y= Company
Z= Company

Dear :

You asked for advance approval of your employer-related scholarship grant procedures under Internal Revenue Code section 4945(g). This approval is required because you are a private foundation that is exempt from federal income tax. You requested approval of your scholarship program to fund the education of certain qualifying students.

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 Code section 4945(g)(1). As a result, expenditures you make under these procedures won't be taxable.

Also, 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 Code section 117(c)).

Description of your request

You will operate a scholarship program called X. The purpose of X is to award a scholarship based on scholastic achievement, demonstrated leadership and participation in school and community affairs. The awards cover all forms of accredited post high school education, including colleges, universities, and vocational and technical schools.

The following persons are eligible to participate in the scholarship program:

- A dependent unmarried child of any current regular full-time employee of Y and its subsidiary, Z, (excluding officers and directors of Y or its subsidiary) is eligible to participate if the employee has worked for Y or its subsidiary at least one continuous year as of the application deadline date; and
- A current regular full time employee of Y or Z (excluding officers and directors of Y or its subsidiary) is eligible to participate if the employee has worked for Y or its subsidiary at least one continuous year as of the application deadline.

Dependent child, for purposes of the scholarship program, is defined as any natural child, legally adopted child, stepchild, dependent grandchild and any other child which the employee has been appointed as their legal guardian who is under the age of 25.

Dependent, for purposes of the scholarship program, means a child living in the employee's household or primarily supported by the employee's household or primarily supported by the employee and claimed as a dependent on the most recent federal income tax return of the employee.

Applicants should also have a high school diploma or its equivalent (or have the expectation of receiving it during the current calendar year) and be planning to enroll or already be enrolled in post high school studies on a full-time basis.

A dependent child who has worked part-time for Y or Z shall be eligible to participate. Additionally, children whose parents are officers or directors of Y or its subsidiary are not eligible for these awards. A family may be awarded only one scholarship per year.

The awards are for g dollars per year and are available for up to four years for each recipient for tuition or school related fees and expenses for study in any accredited post high school education program. Up to seven such awards will be made this year. The award will cover one year of full-time graduate or undergraduate study. Awards will be paid in two equal installments per academic year.

This scholarship program is administered by Q, a department of P. P is a national nonprofit educational support and student aid service organization that seeks to involve and assist the private sector in expending educational opportunities and encouraging educational achievement. P is an independent organization and no members of its staff or board are connected with Y. P shall interpret the provisions of the scholarship award program; reconcile any inconsistency; and make all other determinations necessary or advisable for the proper administration of the scholarship award program.

Scholarship recipients are selected on the basis of academic record, potential to succeed, leadership and participation in school and community activities, honors, work experience, a statement of educational and career goals, and outside appraisal. Financial need is not considered.

Selection of recipients is made by P. In no instance does any officer or employee of you, Y, or Z play a part in the selection. All applicants agree to accept the decision of P as final.

Students may reapply to the program each year they meet eligibility requirements. The awards will be available for up to four years per recipient. Awards are renewable on the basis of each recipient's continued scholastic achievement and demonstration of leadership qualities and satisfaction of all eligibility requirements.

A recipient may select any accredited post high school institution. This means the award is good not only for a four-year college, but also for any accredited two-year college or trade school. Likewise, the award places no restrictions on choice of study.

To apply, the student must provide an application along with a current official transcript of grades. The completed application form and all other required pieces of information as note on the application must be mailed to P by the annual deadline.

You will comply with the seven conditions and either the percentage tests or facts and circumstances test for scholarships, fellowships and educational loans to attend an educational institution as set forth in Revenue Procedures 76-47 and 80-39. You will award grants to 10% or fewer of the eligible applicants of employees of Y and Z who are actually considered by the selection committee when selecting recipients of grants in that year. You will also award grants to 25% or fewer of the eligible applicants of children of employees of Y and Z who are actually considered by the selection committee when selecting recipients of grants in that year.

You will arrange to receive and review grantee reports annually and upon completion of the purpose for which the grant was awarded. You will investigate diversions of funds from their intended purposes. You will take all reasonable and appropriate steps to recover diverted funds, 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 diversions from occurring.

You will maintain all records relating to individual grants, including information obtained to evaluate grantees, identify whether a grantee is a disqualified person, establish the amount and purpose of each grant, and establish that you properly supervise and investigate grants.

Basis for our determination

The law imposes certain excise taxes on the taxable expenditures of private foundations (Code section 4945). 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 of the following requirements of Code 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 Code section 117(a).
- The grant is to be used for study at an educational organization described in Code section 170(b)(1)(A)(ii).

Revenue Procedure 76-47, 1976-2 C.B. 670, 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 Code section 117(a). If the program satisfies the seven conditions in sections 4.01 through 4.07 of Revenue Procedure 76-47 and meets the applicable percentage tests described in section 4.08 of Revenue Procedure 76-47, we will assume the grants are subject to the provisions of Code section 117(a).

You represented that your grant program will meet the requirements of either the 25 percent or 10 percent percentage test in Revenue Procedure 76-47. These tests require that:

- The number of grants awarded to employees' children in any year won't exceed 25 percent 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 percent 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 percent 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 Revenue Procedure 85-51, 1985-2 C.B. 717, when applying the 10 percent test applicable to employees' children.

In determining how many employee children are eligible for a scholarship under the 10 percent 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 Revenue Procedure 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 as long as your procedures comply with sections 4.01 through 4.07 of Revenue Procedure 76-47 and with 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 Cincinnati Office of Exempt Organizations at:

Internal Revenue Service
Exempt Organizations Determinations
P.O. Box 2508
Cincinnati, OH 45201

- You cannot 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 Code 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'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, please contact the person listed at the top of this letter.

Sincerely,

Director, Exempt Organizations