



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:

Release Number: 202323017  
Release Date: 6/9/2023

#### LEGEND

B = State  
C = County  
D = County  
F = County  
G = Number  
x dollars = Amount  
y dollars = Amount  
z dollars = Amount

UIL: 4945.04.04

Dear :

You asked for advance approval of your scholarship procedures under Internal Revenue Code (IRC) Section 4945(g)(1) and advance approval of your educational grant procedures under IRC Section 4945(g)(3).

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 scholarships. Based on the information you submitted, and assuming you will conduct your program as proposed, we determined that your procedures for awarding 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 provide in IRC Section 117(b)).

We also approved your procedures for awarding educational grants. Based on the information you submitted, and assuming you will conduct your program as proposed, we determined that your procedures for awarding educational grants meet the requirements of IRC Section 4945(g)(3). As a result, expenditures you make under these procedures won't be taxable.

#### Description of your request

Your letter indicates you will operate a scholarship program to make grants to applicants to pursue an undergraduate or graduate course of study. You will also make grants to selected applicants for the pursuit of

**Letter 4792 (Rev. 1-2022)**  
Catalog Number 58263T

special education programs for handicapped individuals, such as those suffering from learning disabilities. You will make grants to selected applicants to enable the grantees to pursue an undergraduate or graduate course of study at an accredited college or university anywhere in the United States or, in the case of graduate studies, at an equivalent educational institution in England or European countries. You will also in appropriate circumstances make grants to selected applicants for the pursuit of special education programs for handicapped individuals, such as those suffering from learning disabilities.

Your educational grants will consist of two parts: (a) a scholarship or fellowship providing support for the payment of qualified tuition, fees, books, supplies, and equipment, and (2) a subsistence grant covering all or part of the grantee's housing costs, costs of travel between home and the school attended, and other reasonable and necessary costs incurred in the grantee's undergraduate or graduate studies.

You contemplate awarding G educational grants each year, with each in the range of x dollars to y dollars annually.

You will not impose any specific requirements for past academic achievement or performance on standardized tests but will instead choose grantees based on your assessment of the potential value of the desired studies to the individual grant applicant. You will give a preference to applicants who will be first generation college students or who otherwise have substantial physical, cultural or historical barriers to entry into a highly ranked college or university.

Your educational grants will be targeted to filling the "gap" between the applicants available resources and the actual costs of the study to be undertaken. As such, there will be no specific income maximum stipulated for the applicant and his or her parents or guardians. Rather, actual resources available to the applicant, including other scholarships or educational grants, and actual costs involved will be the criteria. An objective will be avoidance of unmanageable debt by the applicant and his or her parents or guardians.

The availability of your educational grants will be publicized through communications to the guidance counselors at public and private secondary schools throughout the B metropolitan area, commencing first with the Counties of C, D and F and expanding thereafter to other counties in the region as resources permit.

Your board of directors will serve as the selection committee. If future growth in the number of directors makes it impractical for the entire board to serve as the selection committee, the board will appoint an educational grants selection committee from among the board members or, if specialized expertise is deemed needed, from among non-board members who have relevant expertise. No member of a selection committee, whether the members of the Board or of some other group, will participate in any decision to make an award of a grant to an individual who is a member of the immediate family of that selection committee member, and no grant will be made to any person who is a disqualified person.

Your educational grants will be awarded based on the information provided to you by way of written application and personal interviews.

Your educational grants will typically be made on an annually renewable basis, contingent upon the grantee's remaining continuously engaged in a course of study designed to enable undergraduate graduation within five years or the attainment of a master's doctorate level degree within four years of study and research.

You require grantees to submit periodic reports concerning the studies undertaken and costs incurred. Your board of directors will review all reports for appropriate uses of the grant award amount and will work with a student to correct any inappropriate expenditures of the grant. Each grant agreement will contain a provision

obligating the repayment of any amount of a grant spent for inappropriate purposes. Each grant recipient will be required to submit a copy of a report from the institution attended of the grantee's academic performance or other suitable evidence of his or her actual engagement in educational activities.

You will maintain copies of all applications submitted, all notices of awards of educational grants, and all reports from grantees concerning use of funds.

You also provide grants to applicants who are believed likely to benefit from special educational programs for handicapped persons, such as those with learning disabilities.

All grants made to or for disabled or disadvantaged individuals will be directed to educational programs at fully accredited non-profit schools that offer instruction for school aged children with learning differences and/or disabilities such as autism or Down's syndrome who need a specialized program of the sort offered by such schools.

A typical grant from the Foundation would be in the range of z dollars.

You are aware of schools in the B area that can provide the types of specialized instruction needed for disabled or disadvantaged individuals. Parents or guardians of students who need financial assistance will be referred refer to you to enable a child to attend.

You rely heavily on the recommendations of the schools who refer students to you. The criteria used will be financial need and the potential educational benefits to be offered to the child.

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.

**IRC Section 4945(g)(1) Requirements:**

- 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).

**IRC Section 4945(g)(3) Requirements:**

- 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) and is to be used for study at an educational organization described in IRC Section 170(b)(1)(A)(ii).
  - A prize or award subject to the provisions of IRC Section 74(b), if the recipient of the prize or award is selected from the general public.
  - To achieve a specific objective; produce a report or similar product; or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar skill or talent of the recipient.

To receive approval of its educational grant procedures, Treasury Regulation Section 53.4945-4(c)(1) requires that a private foundation show:

- The grant procedure includes an objective and nondiscriminatory selection process.
- The grant procedure results in the recipients performing the activities the grants were intended to finance.
- The foundation plans to obtain reports to determine whether the recipients have performed the activities that the grants were intended to finance.

**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 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

cc: