

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

**Department of the Treasury**

Number: **201510054**  
Release Date: 3/6/2015

**Employer Identification Number:**

**Contact person - ID number:**

**Contact telephone number:**

**Date: December 10, 2014**

**LEGEND**

UIL: 4945.04-04

x= dollar amount  
y= dollar amount

Dear \_\_\_\_\_ :

You asked for advance approval of your 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 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 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 provide in Code section 117(b)).

**Description of your request**

Among your exempt purposes is the awarding of scholarship grants for college education to individuals. You wish to provide this educational opportunity to individuals for whom a college degree might be otherwise unattainable.

Scholarships will be awarded for study at accredited colleges, junior colleges, universities, other qualified educational institutions, or trade schools and will generally be in the form of gifts as opposed to loans. It is anticipated that the scholarships may range

from \$x to \$y per student annually depending on the demonstrated need. You will publicize the availability of your scholarships through local newspapers, magazines, and the internet.

Recipients of scholarships will be selected from "qualified applicants" on an objective and non-discriminatory basis without regard to race, color, sex, age, religion, or ethnic or national origin. To be a "qualified applicant" for a scholarship under these procedures, a student must meet the following standards:

- a) Be a graduate or about to graduate from high school or its equivalent, or be a student at an accredited college, junior college, university or other educational institution as defined in paragraph (c) below, or an individual pursuing a GED in preparation for college;
- b) Submit a confidential Scholarship Application;
- c) Be enrolled, or about to enroll, in an educational institution as defined in IRC 170(b)(1)(A)(ii), which normally maintains a regular faculty and curriculum and normally has a regular organized body of students in attendance at the place where its educational activities are carried on. This will include a college, university, trade or business school, and a graduate, post-graduate, or professional school;
- d) Meet one or more of the following criteria:
  - (1) Sufficient academic ability (demonstrated by prior academic performance or performance on tests designed to measure aptitude) to enable him or her to complete courses of study necessary to graduate from the educational institution selected by him or her and which will admit him or her as a student;
  - (2) Character and motivation to obtain an education that he or she may be expected to work hard and seriously to continue and complete his or her education; or
  - (3) Need for financial assistance to enable him or her to complete his or her course of studies and can demonstrate such fact by information submitted with the application.

Determinations of financial need will be based upon all pertinent factors with respect to the student's ability to complete his or her higher education or GED without assistance. Determinations with respect to academic ability and character will be based upon such facts which are deemed pertinent by the Board of Directors and may include transcripts of any applicant and recommendations of an applicant's high school or college adviser.

Grantees are to be selected on an objective and nondiscriminatory basis. Generally, all potential grantees shall be individuals who satisfy the criteria for the award of the grants. However, you reserve the right to impose additional, minor reasonable restrictions and/or requirements upon the selection of grantees and/or the administration of the grant. Any substantial or material changes will be made only with prior IRS approval.

A Selection Committee appointed by your Board of Directors will select the grantees. Each committee member is obligated to disclose any personal knowledge of and

relationship with any potential grantee under consideration and to refrain from participation in the award process in a circumstance where he or she would derive, directly or indirectly, a private benefit if any potential grantee or grantees are selected over others. No scholarship may be awarded to any member of your Board of Directors or Selection Committee, officers, creators, members of the families of the foregoing individuals, or any other disqualified person as defined in IRC 4946(a) with respect to you, or for a purpose that is inconsistent with the purposes described in IRC 170(c)(2)(B).

Potential applicants should submit a scholarship application form. This form should reflect the specific criteria or information you need as well as the factors listed above, as the criteria to be considered in selecting grantees.

The scholarship grant will be paid by you at the discretion of your Board of Directors directly to the educational institution for the scholarship recipient's use. Each educational institution must agree in writing to use the grant funds to defray the scholarship recipient's expenses or to pay the funds (or a portion thereof) to the recipient only if the recipient is enrolled at such educational institution and his or her standing at such educational institution is consistent with the purposes and conditions of the grant.

You will receive a progress report of each student grantee at least once each year. This report must include a summary of the use of the funds awarded, the grantee's courses taken (if any), and grades received (if any) in each academic period. This report must be verified by the educational institution. A final report is also required.

A condition of each scholarship grant is that the scholarship grant will be used only for qualified tuition and related expenses within the meaning of the IRC 117(b)(2), including room and board while enrolled as a full time student. Accordingly, the scholarship grant can only be used for:

- (1) Tuition and fees required for the enrollment or attendance of the student at a qualifying institution;
- (2) Fees, books, supplies and equipment required for courses of instruction at such educational institution; and
- (3) Room and board.

An additional condition is that no part of the scholarship grant can be used as payment for teaching, research, or other services by the scholarship recipient required as a condition for receiving the scholarship.

Where the reports submitted or other information (including the failure to submit reports) indicate that all or any part of a scholarship grant is not being used to further the purposes of such grant, you are under a duty to investigate. While conducting your investigation, you will withhold further payments to the extent possible until any delinquent reports required under the foregoing provisions of these procedures have been submitted.

If you learn that all or any part of a grant is not being used to further the purposes of the grant, you will take all reasonable and appropriate steps to recover the grant funds and/or ensure restoration of the diverted funds to the purposes of the grant. If such a diversion occurs and the grantee has not previously diverted grant funds to any use that does not further the purposes of the grant, you will withhold any further payments to the grantee until it has received acceptable assurances that future diversions will not occur and will require the grantee to take extraordinary precautions to prevent future diversions from occurring.

Where a grantee has previously received funds from you and you determine that any part of a grant has again been used for improper purposes, you will take all reasonable and appropriate steps to recover the grant funds and/or ensure the restoration of the diverted funds to the purposes of the grant. In such case, you will withhold further payments until:

- (1) The diverted funds are in fact recovered or restored;
- (2) You have received assurances that future diversions will not occur; and
- (3) You require the grantee to take extraordinary precautions to prevent future diversions from occurring.

The phrase "all reasonable and appropriate steps," as used above includes legal action where appropriate, but need not include legal action if such action would in all probability not result in the satisfaction of execution on a judgment.

You shall retain complete records in connection with all grants awarded. These records shall include all information obtained by you to evaluate the qualifications of potential grantees, the identification of grantees (including any relationship of any grantee to you or to your directors or officers), the purpose and amount of each grant, the terms of payment of each grant and any additional information you secured as part of the grant administration process.

#### **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 the provisions of 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).

**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 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