

**Internal Revenue Service**

P.O. Box 2508  
Cincinnati, OH 45201

**Department of the Treasury**

Number: **201436052**

Release Date: 9/5/2014

**Employer Identification Number:**

**Contact person - ID number:**

**Date:** June 12, 2014

**Contact telephone number:**

**LEGEND:**

B= city/state

C= county/state

D= state

X= university

Y= city

Z= individual

**UIL:**

4945-04.04

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 will not 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**

You will operate a program to provide scholarships to students attending X working toward a degree in music.

The number of scholarships that will be awarded each year and the amount of each scholarship will vary depending on the amount of funds available to be distributed. You estimate that you will award between three and six scholarships annually, ranging between \$5,000 and \$11,000. The trust is required to annually distribute the greater of

the net income of the trust or the amount that must be distributed to satisfy Code Section 4942.

In January of each year you will run an ad in the Y newspaper announcing the application process. At the same time you will prepare and mail information, such as memos and flyers, to the Financial Aid Director and the Chairman of the Music Department at X.

Your selection process will be based on the provisions and limitations provided in the Last Will and Testament of Z. Eligibility criteria are as follows:

- Applicants must be current college students enrolled at X
- Applicants must be working toward a degree in music
- Applicants must have a minimum cumulative grade-point-average (GPA) of 2.5 on a 4.0 scale
- Applicants must demonstrate financial need
- Applicants must demonstrate traits of high personal character and leadership

Preference will be given to applicants in the following order:

- applicants from B;
- applicants from C;
- applicants from D;
- applicants selected by X.

If applicants are selected by X, X will provide you with that information.

Each year you will advise the scholarship advisory committee of the amount of funds available to be awarded as scholarships. The members of your committee review the scholarship applications and rank the applicants based on GPA and demonstrated traits of high personal character and leadership. The committee then makes a recommendation to your trustee of the amount that should be awarded to each applicant. All scholarships are awarded on an objective and non-discriminatory basis. No scholarship may be awarded to any disqualified person as defined in Code Section 4946.

Your scholarships may be renewed on an annual basis for up to three additional years (or until the bachelor's degree is obtained, whichever is earlier) provided a recipient maintain their undergraduate status and a cumulative GPA of 2.0 on a scale of 4.0.

You will pay the scholarship proceeds directly to X for the benefit of the recipient upon receipt of a grade report/transcript and a payment form. You will also provide a letter to X specifying that acceptance of the funds constitutes agreement to (i) refund any unused portion of the scholarship if a scholarship recipient fails to meet any term or condition of the scholarship; and (ii) notify you if the scholarship recipient fails to meet any term or condition of the scholarship. If X will not agree to such terms, you will obtain the needed reports and grade transcripts from the scholarship recipient.

You represent that you will (1) arrange to receive and review grantee reports annually and upon completion of the purpose for which the grant was awarded, (2) investigate diversions of funds from their intended purposes, and (3) take all reasonable and appropriate steps to recover diverted funds.

You will also 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 the grantees will take extraordinary precautions to prevent future diversions.

You also represent that 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 establishing that you undertook the supervision and investigation of 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 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.

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