SN:4945.00-00

Internal Revenue Service

199945057

Department of the Treasury

Washington, DC 20224

Contact Person:

Telephone Numbe

In Reference to:

Date: AUG 13 1999

OP:E:EO:T:4

Legend:

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Dear Sir or Madam:

This is in reference to your letter of July 21, 1999, requesting advance approval of your grant procedures under section 4945(g) of the Internal Revenue Code.

The information submitted indicates that grants will be administered and supervised by B. B is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954 and has been classified as other than a private foundation under sections 509(a)(1) and 170(b)(1)(A)(vi).

Your scholarship program is called C. Under the terms of an agreement, you will make annual contributions to C to fund scholarships for the children of employees of D. B will prepare and furnish application forms, receive all applications, determine the recipients and amount to be awarded, notify the recipients of the award, confirm enrollment in an educational institution, make payment of the award, and supervise and investigate the use of the grant funds by the recipients in their educational programs. Recipients are determined solely by B utilizing selection criteria whereby each candidate is evaluated based on the following: scholastic aptitude as measured by performance on the scholastic aptitude test; scholastic performance measured by rank in class; counselor appraisal; and interests, activities and leadership contributions. Financial need will be considered in determining the amount of the award.

The scholarships will not be used as a means of inducement to recruit employees for D nor will a grant be terminated if the employee leaves the company. Scholarships will only be awarded to students that plan to enroll in an institution that meets the

requirements of section 170(b)(1)(A)(ii) of the Code. The recipient will not be restricted in his/her course of study. B will supply statistical information on applications received and grants made, which will enable you to maintain the records required by Rev. Proc. 76-47, 1976-2 C.B. 670. You will ensure compliance with the percentage tests under section 4.08 of Rev. Proc. 76-47 in the aggregate with respect to your other scholarship programs available to the same individuals.

Section 4945 of the Code provides for the imposition of taxes on each taxable expenditure of a private foundation.

Section 4945(d)(3) of the Code provides that the term "taxable expenditure" means any amount paid or incurred by a private foundation as a grant to an individual for travel, study, or other similar purposes by such individual, unless such grant satisfies the requirements of section 4945(g).

Section 4945(g)(1) of the Code provides that section 4945(d)(3) shall not apply to an individual grant awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance by the Secretary, if it is demonstrated to the satisfaction of the Secretary that the grant constitutes a scholarship or fellowship grant which is subject to the provisions of section 117(a) and is to be used for study at an educational institution described in section 170(b)(1)(A)(ii) of the Code.

Rev. Proc. 76-47, 1976-2 C.B. 670, sets forth guidelines for a private foundation conducting an employer related grant program to obtain advance approval of its procedures for conducting such a program under section 4945(g) of the Code. Sections 4.01 through 4.07 set forth seven conditions which a private foundation must meet in order to obtain advance approval of its procedures under section 4945(g) of the Code. Section 4.08 provides that a private foundation which makes scholarship awards to children of employees of a company, or to the employees themselves will meet this test if it limits these grants to 25% of all eligible applicants or 10% of all those shown to be eligible in any given year. Renewals of grants awarded in prior years will not be considered in determining the number of grants awarded in a current year.

Based upon the information submitted, and assuming your program will be conducted as proposed, with a view to providing objectivity and nondiscrimination in the awarding of scholarship grants, we rule that your grants to B for the awarding of scholarship grants comply with the requirements of section

4945(g)(1) of the Code. Thus, expenditures made in accordance with these procedures will not constitute "taxable expenditures" within the meaning of section 4945(d)(3) of the Code, and as such are eligible for the exclusion from income provided for in section 117(a) of the Code to the extent that such grants are actually used for qualified tuition and related expenses within the meaning of section 117(b)(2) of the Code.

This ruling is conditioned on the understanding that there will be no material changes in the facts upon which it is based. It is further conditioned on the understanding that no grants will be awarded to creators, officers, directors, trustees, or members of the selection committee, or for a purpose inconsistent with the purposes described in section 170(c)(2)(B) of the Code.

Please note that this ruling is only applicable to grants awarded under your scholarship program as outlined above. Before you enter into any other scholarship programs you should submit a request for advance approval of that program.

We are informing your key District Director of this action. Please keep a copy of this ruling with your organization's permanent records.

This ruling is directed only to the organization that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Sincerely yours,

Gerald V. Sack

Gerald V. Sack
Chief, Exempt Organizations
Technical Branch 4