

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

Department of the Treasury

Number: 201606033  
Release Date: 2/5/2016

Employer Identification Number:

Contact Person - ID Number:

Contact Telephone Number:

Date: November 11, 2015

LEGEND

UIL: 4942.03-07

B= City  
C= College Name  
D= Street Names

x dollars = Amount  
y dollars = Amount

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

**Why you are receiving this letter**

This is our response to your July 21, 2015 letter requesting approval of a set-aside under Internal Revenue Code section 4942(g)(2). You've been recognized as tax-exempt under section 501(c)(3) of the Code and have been determined to be a private foundation under section 509(a).

**Our determination**

Based on the information furnished, your set-aside program is approved under Internal Revenue Code section 4942(g)(2). As required under section 4942(g)(2), the set aside amount must be paid within the 60-month period after the date of the first set-aside.

**Description of set-aside request**

You have requested approval of a set-aside of x dollars for the taxable year ending December 31, 2015 to partially fund the construction of a campus in B for the benefit of C which is a 501(c)(3) organization and for the surrounding community. The project will be located in an economically depressed area that has been identified by the federal government as having areas of deep poverty where people have lacked the resources and other supports to break the cycle of poverty. Construction of the campus is anticipated to begin during the fall of 2016 and be completed by December 2020. The anticipated total cost of the entire project is y dollars. There are no planned additions to the set-aside.

The building is to be constructed on two acres of property located at D Streets in B and is expected to be a multi-story building, with classrooms, student facilities, educational training facilities and other types of educational facilities typically associated with a campus.

The construction of the campus is better accomplished by a set-aside of x dollars rather than the immediate payment of such funds. Current spending for the construction of the facility is not possible because the activities involved in the construction of the campus, including design, permit and approval process, construction and furnishing, in planning, designing and constructing the facility will take place over a period of several years. Moreover, as is customary and appropriate in the construction of a building, payments will be made by you on an "as work is done" basis, which will promote the proper and timely completion rather than immediate payment.

You have provided a statement that the amount to be set-aside will be paid by December 31, 2020 and will end not more than 60 months after the date of the first set-aside.

#### **Basis for our determination**

Internal Revenue Code section 4942(g)(2)(A) states that an amount set aside for a specific project, which includes one or more purposes described in section 170(c)(2)(B), may be treated as a qualifying distribution if it meets the requirements of section 4942(g)(2)(B).

Section 4942(g)(2)(B) of the Code states that an amount set aside for a specific project will meet the requirements of this subparagraph if, at the time of the set-aside, the foundation establishes that the amount will be paid within five years and either clause (i) or (ii) are satisfied:

Section 4942(g)(2)(B)(i) of the Code is satisfied if, at the time of the set-aside, the private foundation establishes that the project can better be accomplished using the set-aside than by making an immediate payment.

Section 53.4942(a)-3(b)(1) of the Foundations and Similar Excise Taxes Regulations provides that a private foundation may establish a project as better accomplished by a set-aside than by immediate payment if the set-aside satisfies the suitability test described in section 53.4942(a)-3(b)(2).

Section 53.4942(a)-3(b)(2) of the Foundations and Similar Excise Taxes Regulations provides that specific projects better accomplished using a set-aside include, but are not limited to, projects where relatively long-term expenditures must be made requiring more than one year's income to assure their continuity.

In Revenue Ruling 74-450, 1974-2 C.B. 388, an operating foundation converted a portion of newly acquired land into a public park under a four-year construction contract. The construction contract payments were to be made mainly during the

final two years. This constituted a "specific project." The foundation's set-aside of all its excess earnings for four years was treated as a qualifying distribution under Internal Revenue Code section 4942(g)(2).

**What you must do**

Your approved set-aside(s) will be documented on your records as pledges or obligations to be paid by the date specified. The amounts set aside will be taken into account to determine your minimum investment return under Internal Revenue Code section 4942(e)(1)(A), and the income attributable to your set aside(s) will also be taken into account in computing your adjusted net income under section 4942(f) of the Code.

**Additional information**

This determination is directed only to the organization that requested it. Internal Revenue Code section 6110(k)(3) provides that it may not be used or cited as a precedent.

Please keep a copy of this letter in your records. We have sent a copy of this letter to your representative as indicated in your power of attorney.

If you have any questions, please contact the person listed in the heading of this letter.

Sincerely,

Jeffrey I. Cooper  
Director, Exempt Organizations  
Rulings and Agreements

Enclosure