

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

Department of the Treasury

Date: April 13, 2016

Employer Identification Number:

Number: 201628022
Release Date: 7/8/2016

Contact Person - ID Number:

Contact Telephone Number:

LEGEND:

UIL:
4942.03-07

P = Facility
Q = Program Name
R = Program Name
S = County/State
T = Name
U = Name

x dollars = Amount
y = Number

Dear :

Why you are receiving this letter

This is our response to your October 30, 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 a set-aside of x dollars for the tax year ending December 31, , to fund the Project. The nature of the Project is to build a P to operate the Q to provide hands-on education experiences to local children and to operate the R to provide water quality analysis for adults. Both programs have been recognized as leading water quality and science education programs. These programs have operated out of a very restrictive facility as an outreach to various participating

schools. The current P is no longer a feasible location to perform water testing with student involvement because it is physically too small and all class interaction must take place on a deck which does not work well if it rains.

The new P will provide a proper chemistry teaching lab and biology teaching lab. Each lab will accommodate several students plus instructors. You were recently able to obtain a site adjacent to the T facility near U River and crossed by two flowing creeks. The new facility will allow students to visit the P and engage in hands-on water quality evaluations. The building for the new P will be y square feet and will be built in S. The amount to be set aside to build the P is x dollars in 2015. There are no amounts to be added after the initial amount is set aside.

The set-aside total amount will be distributed to construction companies as they reach milestones and complete the construction of the P. The project can be better accomplished by a set-aside than by an immediate payment of funds because it would not be prudent to pay the construction contractors the total amount prior to the completion of the entire job, because the standard practice is to pay for construction activities as each milestone toward completion is finished. Further, the set-aside approach will allow you to maximize control over the project, with the goal of achieving a better result.

The set-aside amount should be fully distributed in 2016 but in no case no later than 60 months after the total amount is set-aside. If P is blocked for some unforeseen reason, you will distribute the total amount set-aside on other education buildings that will be built within 60 months.

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.

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