

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

Department of the Treasury

Release Number: **201738014**
Release Date: 9/22/2017
Date: June 28, 2017

Employer Identification Number:

Contact Person - ID Number:

Contact Telephone Number:

LEGEND:

W = Organization
x dollars = Amount
y dollars = Amount

UIL:
4942.03-07

Dear _____ :

Why you are receiving this letter

This is our response to your December 5, 2016, 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 requested approval of a set-aside of x dollars for the taxable year ending December 31, _____, for the purpose of funding an exhibit W plans to construct. W is undertaking a capital campaign to add several exhibits and improve its infrastructure. You paid y dollars in cash grants in _____ for W's capital campaign to be used as W saw fit.

You want your future grants to be devoted to a specific exhibit. Your project is better accomplished through a set-aside rather than through an immediate payment of funds because, due to the long planning and design process, the bulk of those funds are not expected to be expended on construction until _____ through _____.

The set-aside would serve three purposes:

- To defer the payment of those funds until design and construction is under way.
- To demonstrate to potential donors that the specific exhibit has already attracted significant support.
- To allow those funds to be preserved and potentially grow between now and the time they're needed.

You plan to set-aside x dollars in _____ and anticipate paying the entire x dollars to W in the first quarter of _____, but no later than the end of that year, assuming construction is under way. You attested that the entire x dollars will be paid within the 60-month period after the date of the first set-aside regardless of whether construction is under way.

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 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 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,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosure