

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

**Department of the Treasury**

**Release Number: 201848018  
Release Date: 11/30/2018  
Date: September 4, 2018**

**Employer Identification Number:**

**Contact Person - ID Number:**

**Contact Telephone Number:**

**LEGEND**

**UIL:  
4942.03-07**

**B = Specified scholarship  
C = Scholarships  
x dollars = Initial set-aside  
y dollars = Total project cost**

**Dear :**

**Why you are receiving this letter**

This is our response to your January 29, 2018, 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 propose set-asides for the purpose of constructing an academy to help students similar to B recipients. The academy will be a private boarding school for high achieving high school students from public high schools whose students are eligible for B. Admitted students will attend the school at no charge. You will pay all tuition, fees, room and board, books and other costs.

The amount of the set-aside for calendar year 20 is x dollars. Additional set-asides for the years of 20 , 20 , 20 and 20 will equal the excess of the undistributed income in each year that is not used for the purpose of awarding C. The total estimated cost of the project is y dollars.

The project can better be accomplished by set-aside rather than immediate

payment of funds because it is a long-term project, the building site is not currently owned, architectural plans have not been finalized; preparing architectural plans and building the project will take more than a year; such a project reasonably requires a period of time that spans several years and is customary in the construction business that payments are made as work is completed. A statement has been submitted that the amounts to be set-aside will actually be paid within a specified time period not to exceed 60 months from 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.

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