

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

Department of the Treasury

Date: March 10, 2020

Employer Identification Number:

Number: 202023011

Contact Person - ID Number:

Release Date: 6/05/2020

Contact Telephone Number:

LEGEND

w dollars = Amount

x dollars = Amount

Y = Individual

UIL

4942.03-07

Dear :

Why you are receiving this letter

This is our response to your June 18, 2019 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 were formed pursuant to a trust agreement to establish a museum for contemporary studio art glass as well as to educate the public about studio art glass and about the use of glass as an artistic medium.

You recently purchased a building which you plan to convert into a museum to display artwork you will eventually receive from the estate of Y. However, the receipt of the artwork is currently delayed because of the amount of time it is taking to settle Y's estate. Additionally, the Y estate is currently involved in legal issues that has prevented the assets from being distributed.

In the meantime, you estimate that the remodeling and refurbishment of the building will take approximately 24-48 months. You are consulting with architects regarding the renovation and refurbishment of the building and this may ultimately lead to a decision that the proposed location is too costly to renovate. In that case,

you will continue to pursue various venues to accommodate a museum including the possibility of leasing a space to build out an exhibit for the artwork. Amounts set aside will be expended to facilitate either scenario.

You previously set aside w dollars for this project. This request consists of an additional w dollars to be set aside during 20 to be paid for the project no later than December 31, 20 . Current projections estimate the costs to renovate the building at x dollars. You may also need additional set-asides in similar amounts in 20 and 20 . You do not anticipate needing funding from any additional sources to complete the project.

You have cited various reasons for requesting the set-aside, including the delay of the administration of Y's estate which is distributing the artwork to you, as well as the amount of time it may take to renovate and convert the building you purchased for the museum. In addition, if this location and building is not feasible, you may have to find an alternative location, and work with architects on suitable plans.

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