

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

Department of the Treasury

Date: September 15, 2020

Employer Identification Number:

Number: 202050018

Contact Person - ID Number:

Release Date: 12/11/2020

Contact Telephone Number:

LEGEND:

UIL: 4942.03-07

C = State

D = Year

E = Year

F = Year

G = Year

m dollars = Amount

n dollars = Amount

p dollars = Amount

q dollars = Amount

r dollars = Amount

Dear :

Why you are receiving this letter

This is our response to your December 16, 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 in the state of C. Your purpose is to provide

. Further, the property requires extensive renovations and upgrades.

You have already requested and received set-asides for year D for p dollars and for year E for q dollars to fund these renovations. You originally anticipated that the plans for the renovation would be completed in the middle of D, and the renovation work to start in late D, and take approximately twelve to eighteen months to finish. However, there have been significant delays beyond your control in trying to obtain the proper permits as well as changes in the scope of the project; consequently, you now expect construction to start late this year. Therefore, you are requesting an additional set-aside for year F in the amount of r dollars.

You will use the set-asides for the renovations which will dramatically upgrade the current conditions and add additional space. This will allow you to extend the length of the residencies during the year and improve the ambiance of the property for the artists and writers.

During years G and H, you should complete the set-aside of p dollars, the set-aside of q dollars, and the requested set-aside of r dollars with the project costs for the renovation, which will be less than 60 months after the first set-aside. You believe that this project can be best accomplished by a set-aside rather than an immediate payment of funds, since it would be imprudent for you to prepay funds to contractors and professionals for work that has not commenced yet. The set-aside approach will allow you to maximize control over the project, with the goal of achieving a better result.

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