

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

Department of the Treasury

Date: October 6, 2020

Employer Identification Number:

Contact Person - ID Number:

Number: 202053017
Release Date: 12/31/2020

Contact Telephone Number:

LEGEND

UIL

B= Name
C= Name
D= Name
g dollars = Amount
h dollars= Amount
j dollars= Amount

4942.03-07

Dear :

Why you are receiving this letter

This is our response to your April 1, 2020, 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 g dollars for the tax year ending December 31, 2020.

Your mission in part is to operate and fund educational programs for schools as well as the general public located in your metropolitan area.

You are requesting the set aside of g dollars because of the tremendous impact the COVID 19 shutdown in the state of B has had on all current construction projects. Further, due to the shutdown, contractors have been unable to manage

these projects from home. The purpose of the set aside is to ensure that these projects will be properly managed, monitored and brought to a satisfactory and quality conclusion in a successful and timely manner.

The current construction projects which would fall under the Set Aside of g dollars are for your properties consisting of C and D.

For the C, you have budgeted h dollars of the total set aside of g dollars,

For D, you have budgeted j dollars of the total set aside of g dollars, which would be used for the construction of education buildings which are designed, as well as the repair of

You have already consulted with architects and construction experts to review potential costs of these projects as well as likely timelines. Additionally, these cost amounts are estimates as conditions are likely to be discovered that are currently hidden and will require additional work.

The set-aside total amount will be distributed to the contractors as they reach milestones and complete the construction of the various projects. The projects can be better accomplished by a set-aside than by an immediate payment of funds because it would not be prudent to pay the 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. In addition, due to COVID-19, the timelines for when these projects will be completed is uncertain. Further, the set-aside approach will allow you to maximize control over the projects, with the goal of achieving a better and successful result.

You will distribute the total set aside amount within 60 months after the date of the first set aside. If the any of the projects or any parts of the projects get blocked for any reason, or if the costs are lower than estimates, then you will distribute the amount on other education building renovations, repairs or new structures to be completed 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,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements