

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

Department of the Treasury

Date: December 8, 2020

Employer Identification Number:

Number: 202109009
Release Date: 3/5/2021

Contact Person - ID Number:

Contact Telephone Number:

UIL:4942.03-07

LEGEND

x dollars = Amount
y dollars = Amount
z dollars = Amount

Dear :

Why you are receiving this letter

This is our response to your December 30, 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 are requesting the advance approval of a set-aside of x dollars. The funds will be used to acquire and develop a building/facility to be used as a studio and educational facility for purposes of developing and promoting classical dance and the arts. The facility will house your administrative activities and will also accommodate eminent artists and teachers.

You anticipate paying between y dollars and z dollars for the property. You are evaluating and negotiating with a seller relating to a property. You have identified a second potential site for acquisition to the extent that the current target property negotiations do not result in a purchase.

Although you plan on locating a property to purchase in the near-term, you indicated that it would not be prudent to rush the process. The project can better be accomplished by a set-aside due to the nature of identification and purchase of a suitable property. You want to ensure the property is suitable for your charitable purposes and artistic endeavors. You want to carefully analyze the capacity needs with respect to anticipated student population.

You do not anticipate that a study of your capacity needs will extend long into the future. It is planned that the property will be acquired within a year but not to exceed 60 months of your set-aside request.

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