

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

Department of the Treasury

Date: July 21, 2021

Employer Identification Number:

Contact person - ID number.

Contact telephone number:

Release Number: 202141031
Release Date: 10/15/2021

LEGEND

B - Date

C = Date

D - Date

F - Location

q dollars = Amount

r dollars = Amounts

UIL: 4942.03-07

Dear

Why you are receiving this letter

This is in response to your December 31, 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) and a private operating foundation under Section 4942(j)(3).

Our determination

Based upon 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 for charitable purposes by a trust document on B.

To achieve your charitable purposes, you are promoting, establishing, conducting, and maintaining activities on your own behalf and you may also contribute to or otherwise assist other qualified 501(c)(3) corporations, organizations, and institutions in carrying out their exempt activities. You will strive to inspire successful community culture by engaging in programs that cultivate redeeming social values of mutual caring, respect, and kindness.

You have requested a set-aside for q dollars for the purpose of

. The project will cost in the range of r dollars and the remainder of the needed funds will likely come from another private foundation.

The facility will house a

. The facility may host

Further, it will be used by five departments and other governmental agencies for training purposes.

You already have a site for the project and have drafted detailed diagrams and plans. You are also in the process of obtaining the necessary permits from the county and state. By the end of year , the project is anticipated to be over completed. It is expected that the indoor portion will be complete by C and the outdoor portion will be completed by D, while the building shell would be completed by D. Once the project is completed, it will be fully operational.

The project can be better accomplished by a set-aside than by an immediate payment of funds because it is also very costly and will take more than a year to complete. You will be making charitable expenditures towards construction of charitable use assets that will be in excess of the minimum charitable expenditure requirements applicable to private operating foundations. It is also time consuming to obtain the needed permits from the county and state government. Furthermore, it would not be prudent to pay the construction contractors the total amount prior to the completion of the entire job. The set-aside will be distributed to construction companies as they reach milestones and complete the construction. Further, the set-aside approach will allow you to maximize control over the construction of the project with the goal of achieving a better result.

You will distribute the total set aside amount within months after the date of the first set aside. You have no planned additions to the set-aside after its initial establishment.

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 be better 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 sustainability test described in Section 53.4942(a)-3(b)(2).

Section 53.4942(a)-3(b)(2) of the Foundations and Similar Excise Taxes 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 into a four-year construction contract. The construction contract payments were to be 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 when 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 precedent.

Please keep a copy of this letter in your records.

We have sent a copy of this letter to your representative as indicated in your power of attorney.

If you have questions, please contact the person listed in the heading of this letter.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosure