



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
P.O. Box 2508
Cincinnati, OH 45201

Date:
07/25/2022
Employer ID number:

Person to contact:
Name:
ID number:
Telephone:
Fax:

Number: 202242024
Release Date: 10/21/2022

LEGEND

UIL: 4942.03-07

B = location
C = state
D = township
f dollars = amount

Dear :

Why you are receiving this letter

We received your August 10, request for approval of a set-aside under Internal Revenue Code (IRC) Section 4942(g)(2). Based on the information furnished, your request is approved.

You are recognized as tax-exempt under IRC Section 501(c)(3) and as a private foundation under IRC Section 509(a).

What you need to do

Document your approved set-aside(s) in your records as pledges or obligations. You must pay the set-aside amounts within 60 months after the date of the first set-aside, as required under IRC Section 4942(g)(2).

Take into account the amounts set aside when determining your minimum investment return under IRC Section 4942(e)(1)(A) and the income attributable to your set-asides when computing your adjusted net income under IRC Section 4942(f).

Description of set-aside request

You have requested a set-aside of f dollars for the tax year ending December 31,

The purpose of the set-aside is to fund construction of an educational facility, including classroom and research facilities, you will use for programs located at B in C.

You are requesting the set-aside because COVID-19 continues to be a concern as you are unable to schedule or determine when construction projects for the education facility will be completed. Contractors have been slow to respond to you and are having difficulty finding adequate workers. The set-aside will allow you to properly manage the construction projects and bring them to a quality conclusion. Without the set-aside, the projects would be rushed and, given the current COVID-19 situation, it is unlikely you will be able to finish the projects before the end of the year.

You will use the same design for the education facility of the B project as you used for your D project. You also plan to use the same construction company that you used for the D project. You will review potential costs and provided cost estimates. You acknowledge amounts provided are estimates and conditions are likely to be discovered during construction that will require additional work.

You will distribute the full set-aside amount within months after the date of the first set-aside. If the B project or any aspect of the project is blocked for any reason or the costs end up lower than the estimates, you will use the full or remaining set-aside amount toward other education building renovations, repairs, or new structures that may be built within the next 60 months.

Basis for our determination

IRC Section 4942(g)(2)(A) states that an amount set aside for a specific project, which includes one or more purposes described in IRC Section 170(c)(2)(B), may be treated as a qualifying distribution if it meets the requirements of IRC Section 4942(g)(2)(B).

IRC Section 4942(g)(2)(B) 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.

IRC Section 4942(g)(2)(B)(i) 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.

Treasury Regulation (Treas. Reg.) Section 53.4942(a)-3(b)(1) 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 Treas. Reg. Section 53.4942(a)-3(b)(2).

Treas. Reg. Section 53.4942(a)-3(b)(2) 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 IRC Section 4942(g)(2).

Additional information

This determination is directed only to the organization that requested it. IRC Section 6110(k)(3) provides that it may not be used or cited as a precedent.

Visit www.irs.gov/setasides for more information.

We'll make this determination letter available for public inspection after deleting personally identifiable information, as required by IRC Section 6110. Enclosed are Letter 437, Notice of Intention to Disclose -Rulings, and a copy of the letter that shows our proposed deletions.

- If you disagree with our proposed deletions, follow the instructions in the Letter 437 on how to notify us.
- If you agree with our deletions, you don't need to take any further action.

Keep a copy of this letter for your records.

If you have questions, you can call the contact the person shown above.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosures:
Redacted Letter 4797
Letter 437