



Department of the Treasury  
Internal Revenue Service  
Tax Exempt and Government Entities

Date:  
10/10/2024  
Employer ID number:

Release Number: 202501017  
Release Date: 1/3/2025

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

LEGEND

B = Date  
C = Name  
D = State  
x dollars = Amount  
y dollars = Amount

UIL: 4942.03-07

Dear :

**Why you are receiving this letter**

We received your July 9, 2024 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 x dollars for the tax year ending on B.

You were formed in D under a trust agreement and are organized and operated exclusively for charitable and educational purposes within the meaning of IRC Section 501(c)(3). Since your formation, you have operated a grant making program in which you provide grants to IRC Section 501(c)(3) public charities in the local metropolitan area. You recently acquired C, an existing apartment complex that serves low-income households as a bequest from the estate of your founder. C is located in D where there is a pressing need for decent housing available at affordable rental rates to low-income households.

The purpose of the set-aside is to renovate and expand C, which is in need of extensive repairs and renovations as well as to build an additional building on an adjacent parcel that is currently vacant but located in a different

jurisdiction. You have determined that this will be beneficial to the community because you are preserving and expanding the availability of affordable housing units as well as preserving such units as decent, safe, and affordable housing for low-income persons and families. The redevelopment will greatly increase the housing capacity and the property will be operated as affordable housing in accordance with the guidelines in Rev. Proc. 96-32.

You have already begun the early stages of work by starting an annexation process to ensure all parcels fall into the same jurisdiction which will ease the administrative burdens relating to the development and renovation. After annexation, you will begin the preliminary compliance, approval, and permitting stages, including zoning as well as Site, Architectural and Detail Plan approval. You have designed a multiphase construction plan that will avoid displacement of the C residents.

The costs of the entire project are expected to total approximately y dollars in which the set aside will cover about half. Funds expected to be used to complete the project will be from cash that has been planned and approved for.

The use of a set-aside for C will ensure that the funding will be available as the renovation and construction costs are incurred and will allow you to conduct these activities over time. The set-aside approach will allow you to ensure funds remain available while also providing time to complete the necessary annexation and pre-development work as well as construction and renovation work to ensure that the property is appropriately suited for your charitable activities. Further, the use of a set aside will allow you to pay the costs as they are incurred.

You will distribute the total set-aside amount within 60 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**

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](http://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.

We have sent a copy of this letter to your representative as indicated in Form 2848, Power of Attorney and Declaration of Representative.

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