

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

Department of the Treasury

Number: 202118024
Release Date: 5/7/2021

Employer Identification Number:

Contact Person - ID Number:

Date: February 10, 2021

Contact Telephone Number:

LEGEND

UIL
4942.03-07

W = Year
X = Individual
y dollars = Amount
z dollars = Amount

Dear :

Why you are receiving this letter

This is our response to your May 29, 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 plan to establish a museum for . You purchased a building that was intended to be converted into an art museum once you take ownership of certain artwork that resides in the estate of X. The artwork is expected to be distributed prior to the end of W. Due to the recent COVID-19 pandemic your plans for renovating the building have been placed on hold. Your leadership is re-evaluating your plans to remodel the building and are not in a position to operate a museum at this time. You are requesting a set aside in the amount of y dollars. The project is estimated to cost z dollars. The existing building is no longer expected to be used for the museum and you are unable to scout new locations due to the pandemic. You do not believe you will require any additional funding or set-asides to complete the project.

There are several reasons why the project is better accomplished through the set-aside rather than immediate payment. The estate of X holds various pieces of artwork that will be distributed once administration is completed. In addition, the COVID-19 pandemic has placed a hold on the public visiting of museums which will continue in the foreseeable future. Finally, while your leadership develops new plans the artwork

You have attested that the amount of the set-aside will actually be paid for the specific project within a specified period of time that ends not more than 60 months after the date of the first set-aside.

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