



Date:  
10/17/2022  
Employer ID number:

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

Number: **202302014**  
Release Date: 1/13/2023

**LEGEND**

UIL: 4942.03-07

- D = Date
- E = Date
- F = Date
- G = Date
- H = Date
- J = Date
- K = Date
- L = Name
- M = Agency
- N = Name

- p dollars = Amount
- q dollars = Amount
- r dollars = Amount
- s dollars = Amount
- t dollars = Amount
- u dollars = Amount
- v dollars = Amount

Dear :

**Why you are receiving this letter**

We received your 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**

Your mission consists of serving writers and visual artists from all walks of life, by providing them time and space in which to work without disturbance. Specifically, you provide residency for artists and writers from through for to weeks at a time. The residencies take place on your property which consists of an that has been converted for residential use. The requires extensive renovations.

You have requested a Set-Aside for t dollars for the year end of H for the purpose of providing needed renovations to the which will allow the residences to stay open throughout the year as well as upgrade the current conditions and add additional space including a

You have already requested and been approved Set-Asides for Tax Year D of p dollars, Tax Year E of q dollars, Tax Year F of r dollars and Tax year G of s dollars for the renovation project.

You explained that in year E that you hired a noted architectural firm to lead the project. By early F, you expanded the scope of the project to include a second structure which would serve as the You also formally hired a building firm and thought that the project would proceed and be completed in about months. However, later in year F, the L town planner informed you that a number of variances would be required due to the highly sensitive nature of the environment, because the property bordered on which would impose at least a delay for review, adjustments, and approvals. From the time you were notified by the L town planner, until the COVID pandemic hit, you worked diligently to comply with the requirements of the L town planner and to obtain the various permits required by the M.

The COVID global pandemic then halted the project. During the pandemic, you sought updates from all parties involved in the project and worked attentively to obtain a hearing date with the L town zoning board. Due to remote work requirements within all relevant government departments and the resulting backlog of cases, the project was further delayed. During this time, you continued to work on adjustments to the planned site with continued feedback from the M and you were able to file revised project plans in H. Later in H, the L Town Zoning Board, finally held a public hearing using a ZOOM conference call and, you were advised that the project plans were approved, and variances were permitted. However, you could not begin the project, without approval from the M. While awaiting said approval, you conducted an asbestos test on the property which resulted in abatement work that was completed and certified in early J.

In mid spring of J, the M finally issued you the required permit which was then submitted to the for review and approval. In late spring of J, the issued a permit to you which allowed you to apply for a building permit in the summer of J. Once the building permit is obtained, work on the project can finally commence.

To date a total of u dollars has been already paid to various architects, surveyors, landscapers, attorneys, appraisers, and the general contractor before the construction has even started for the renovation project that you have requested set asides. The estimated cost of this renovation should be in excess of v dollars.

You stated during J, you should complete and payout Charitable Set-Asides p, q, r, s, and t dollars for Tax Years D, E, F, G, and H with project related costs, which will be less than 60 months after the first set-aside. The last payout of all the Set-Asides will be in K. You believe that this project can be best accomplished by a

Set-Aside rather than an immediate payment of funds since it would be imprudent for you to prepay funds to contractors and professionals for work that has not commenced yet. The Set-Aside approach will allow you to maximize control over the project, with the goal of achieving a better result.

**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.

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