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

Department of the Treasury

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Release Date: 9/14/2012
Date: 5/11/2012

Employer Identification Number:

Contact Person - ID Number:

Contact Telephone Number:

LEGEND

UIL LIST:
4942.03.07

V = Location
X = Name
Y = Name

b dollars = Amount
c dollars = Amount
d dollars = Amount
e dollars = Amount
f dollars = Amount
g dollars = Amount

Dear

Why you are receiving this letter

This is our response to your November 22, 2011, 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 have requested a set-aside of b dollars for the tax year ending December 31, 2011, and additional set asides of c dollars, d dollars, e dollars, and f dollars for the tax years 2012 through 2015, respectively, to fund the Project, as described in the following. There is currently no freestanding hospice house facility in V so end of life care is available only in an institutional hospital setting, which is very expensive, and a very structured place for a hospice patient nearing life's end You will provide funding for the construction of a freestanding hospice house, estimated to cost g dollars. The facility, will be located among trees and green space, moreover, it will, include over ten suites with home-like décor and private restrooms, family space, chapel and ample parking as well as room to expand to more suites. The facility you propose to help fund will reduce Medicare costs while providing patients with quality care, dignity, comfort and compassion, as well as enabling their families to focus on being together.

You have been conducting research for the project for over three years by touring numerous facilities which has enabled you to gather information about startup processes, state and federal regulations, staffing requirements, financials, and recommended house plans. Meetings have been held with the local major medical centers' administrators and home care service providers in your area, who see a need for such a facility. You will not own and operate the hospice yourself but the owner will be an exempt organization under section 501(c)(3). You anticipate that the hospice house will be a joint venture of two regional hospitals, X and Y. Both X and Y are exempt under Section 501(c)(3). Moreover, an existing LLC which is an umbrella organization of X and Y and currently operates other joint healthcare initiatives of these entities may be the joint owners. Most hospice houses that operate in this fashion are also able to get services from the owners such as medical supplies, food services and some staffing.

In order to fund the Project in its entirety, as is your intention, you will have to raise a very large amount in grants and contributions from outside sources in addition to dedicating your entire annual distributable amounts through 2019, when the Project is expected to be completed. You anticipate that it will take several years for your fundraising campaign to produce a substantial amount of revenue. The Project is currently in the planning stages. In 2013, a consulting firm will be hired to conduct a feasibility study; in 2014, the architect will be engaged, and the fundraising campaign will open. The fundraising campaign will be the principal focus of your activities in 2015. Construction will commence in 2016. A foundation manager has represented the amounts set aside in the tax years 2011, 2012, 2013, 2014 and 2015 will all have been paid out for the Project by December 31, 2016, sixty months from the date of the initial set-aside.

The project can be better accomplished by a set-aside than by an immediate payment of funds because the planning, design and fundraising phases will take several years to complete, with the construction phase commencing only toward the end of the sixty-month period. Hence, your heaviest outlays will be concentrated in the latter part of the Project period. In addition, the cost of the Project is so high in relation to your annual income that the accumulated income over the entire Project period will not be sufficient to finance it; therefore, you will have to generate large new revenues from a fundraising campaign to meet your funding goal.

The approved set-asides will permit you to accumulate your distributable amounts for the tax years 2011 through 2015 in order to obtain the required amount of funds to construct the hospice facility.

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 77-7, 1977-1 CB 354, the term "specific project" as defined in section 53.4942(a)-3(b)(2) of the Excise Tax Regulations was held to include a building project to be undertaken by a public charity unrelated to the foundation making the set-aside.

What you must do

Your approved set-asides 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. We have sent a copy of this letter to your representative as indicated in your power of attorney.

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

Sincerely,

Lois Lerner
Director, Exempt Organizations

Enclosure