

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date:

HERZING EDUCATIONAL FOUNDATION LTD
C/O WEISS BERZOWSKI BRADY LLP
MICHAEL M BERZOWSKI
700 N WATER ST STE 1500
MILWAUKEE, WI 53202

Employer Identification Number:
27-1503981

DLN:

17053006475010

Contact Person:

TERRY IZUMI

ID# 95048

Contact Telephone Number:

(626) 312-3610

Response Due Date:

Dear Applicant:

Before we can recognize your organization as being exempt from Federal income tax, we must have enough information to show that you have met all legal requirements. You did not include the information needed to make that determination on your Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code.

To help us determine whether your organization is exempt from Federal income tax, please send us the requested information by the above date. We can then complete our review of your application.

If we do not hear from you within that time, we will assume you do not want us to consider the matter further and will close your case. In that event, as required by Code section 6104(c), we will notify the appropriate state officials that, based on the information we have, we cannot recognize you as an organization of the kind described in Code section 501(c)(3). As a result, the Internal Revenue Service will treat your organization as a taxable entity. If we receive the information after the response due date, we may ask you to send us a new Form 1023.

In addition, if you do not provide the requested information in a timely manner, we will consider that you have not taken all reasonable steps to secure the determination you requested. Under Code section 7428(b)(2), your not taking all reasonable steps in a timely manner to secure the determination may be considered as failure to exhaust administrative remedies available to you within the Service. Therefore, you may lose your rights to a declaratory judgment under Code section 7428.

Letter 1312 (DC/PL)

HERZING EDUCATIONAL FOUNDATION LTD

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Thank you for your cooperation.

Sincerely yours,

Exempt Organization Specialist

Enclosure:

List of Missing Items

Additional information needed

1)

You stated that your organization was formed to provide scholarship to students who attends Herzing University, a for profit university. The name of your organization is similar to the for profit university, and also appears that three out of six board members are related to Herzing University.

Section 1.501(c)(3) of the Income Tax Regulations states that an organization is not operated exclusively for one or more exempt 501(c)(3) purpose if its net earnings inure in whole or in part to the benefit of private shareholders or individuals. Thus, to meet the requirements of this subdivision, it is necessary for an organization to establish it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly by such private interest.

Please answer following:

- a) Please explain why people relate to for profit university sits on your board, and how this policy falls under section 501(c)(3). [Note] If you plan to modify your board of directors to place control in the hands of unrelated individuals selected form the community, please submit the names and qualifications of the new board members, as well as a statement signed by each that they will take an active part in your operation.
- b) If you are modifying the board, please describe any relationships, whether familial or business, among the members of your new governing body. Explain any special qualifications, such as education, prior experience, etc. of these individuals, which will aid in the accomplishment of your exempt purposes. Please also describe the extent to which each officer will actually be involved in the day-to-day operations of the organization.
- c) If you are unwilling to modify your board, please explain how the board which controlled by one family or people with the financial interest better serves the public interest rather than the independent board representing the community. Please also describe in detail your check and balance system which the public is assure that all the asset of your organization is used for exclusively charitable purpose under section 501(c)(3) purpose.
- d) Your organization's name is Herzing Educational Foundation Ltd. Which is very similar to the for profit university. Please explain how does naming the public charity using for profit entity's name not considered providing private benefit

to for profit entity. Do you plan to modify your name? If not, please explain why.)

2)

You stated that your organization was formed to provide scholarship to students who are attending Herzing University, a for profit entity. Please answer following:

- a) Please describe the Herzing University. (e.g. Size of student body, yearly tuition amount, program, location, etc.)
- b) Approx. how many students will receive your scholarship per year? What will be the size of the average scholarship?(e.g. You stated that it will be at least \$500 per year. What will be max.?)
- c) Is this scholarship for continuing students or incoming freshman?
- d) You stated that you are giving out scholarship information on school catalogue, school brochures, school websites, etc. Do you advertise anywhere else? Also, do you advertise any other scholarship programs on your catalogue, brochures, and school website? If so, please submit the copy.
- e) If this is only scholarship program you are advertising in school catalogue, please explain how does the public know you are not using the scholarship program as part of the recruiting tool of for profit entity? Please explain.

3)

Please submit copies of any brochures, pamphlets, newsletters, advertisements, or any other literature regarding your organization. [Note] If you have website, please submit copies of your website.

4)

Please submit copies of any written leases, contracts, or agreements entered into by your organization.

5)

You stated that your organization has scholarship program. Please answer following:

- a) Describe any restrictions or limitations on who may apply or whom your organization will consider as possible grantees.
- b) State who selects the recipients from the class of eligible. Be specific. If these people are related in any way to your organization or Herzing University, give complete details.
- c) State whether any relatives of members of the selection committee are eligible for scholarship assistance. If so, please show:

- i) Approximately how many members there are in the class of eligible each year?
 - ii) How many relatives of selection committee members are currently qualified?
 - iii) What procedures are followed to ensure that no selection committee member will derive any direct or indirect benefit if one potential grantee is selected instead of another?
- d) Explain if any grants will be made to spouses, children, descendants, spouses of descendants, or other persons related to any officers or directors of your organization.
- e) Describe how the scholarship program is publicized to ensure that all eligible individuals are likely to be informed that scholarship aid is available.
- f) State whether all grants will be limited to students who will be attending Herzing University.

PLEASE DIRECT ALL CORRESPONDENCE REGARDING YOUR CASE TO:

**INTERNAL REVENUE SERVICE
ATTN:TERRY K IZUMI/GROUP 7887
TE/GE DIVISION, 2nd FLOOR
9350 E FLAIR DR
EL MONTE CA 91731-2885**

Note: Your response to this letter must be submitted over the signature of an authorized person or of an officer whose name is listed on the application. Also, the information you submit should be accompanied by the following declaration:

Under penalties of perjury, I declare that I have examined this information, including accompanying documents, and, to the best of my knowledge and belief, the information contains all the relevant facts relating to the request for the information, and such facts are true, correct, and complete.

11-8-09

Organization's name: Herby Edutel Int

Compare on #3

1. Does the organization have proper Form 2848/POA?

2. The application signed by a proper officer?

3. Governing instrument:

- A) Association/trust: a) Signed by proper officers? b) Have required paragraphs? c) Stated formation date?
- B) Corporation : a) Has proper date stamp on the document? b) Have required paragraphs?

4. Bylaws: A) Signed and dated by officers? B) Fiscal year match with the application?

5. Does the organization's name/address on app. matches w/ the governing instrument? Does the organization's user fee matches with the financial statement?

6. Did the organization file the application within 27 months of the formation?

7. Does the organization have diverse board of directors?

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revised 1/2/10

8. Did the organization submit proper financial statements? Does the E/B matches with the organization's proposed activities?

9. If the organization is public charity, is the requesting foundation section, match with the source of revenue? (509(a) (1) vs. 509(a) (2))

10. Does the organization have any issue on possible inurement, private benefit issue?

11. Does the organization plan to involve in any political or legislative activities?

12. Does the organization plan to involve in a) publishing b) research c) sales of advertisement d) sales of service e) sales of merchandise?

13. If this is a membership org., is the membership open to the public?

14. Does the organization plan to offer seminars, workshops, and other educational actives (Other than school under 75-50)

15. Does the organization have scholarship/grant program?

100% all
I checked with go to Herby Edutel

16. Is this application for

- a) School? b) Church w/less than 20 members? c) Other problem areas including Tag cases? (e.g.: corporate sole, credit counseling, etc.)
- d) under section 509(a) (3)? e) Conservation easement?

17. Did organization clearly describe their activities? Any other issues?

Needs app agent

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