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[REDACTED]

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FILE: [REDACTED] Office: CALIFORNIA SERVICE CENTER Date: JUN 13 2007  
WAC 05 256 50617

IN RE: Petitioner: [REDACTED]  
Beneficiary: [REDACTED]

PETITION: Immigrant Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

ON BEHALF OF PETITIONER:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

*Robert P. Wiemann*  
Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained and the petition will be approved.

The petitioner is a local arm of a New York-based church. It seeks to classify the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), to perform services as a pastor. The director determined that the petitioner had not established that it is a qualifying tax-exempt religious organization.

On appeal, the petitioner submits a brief from counsel and copies of various documents, some of them previously submitted.

Section 203(b)(4) of the Act provides classification to qualified special immigrant religious workers as described in section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C), which pertains to an immigrant who:

(i) for at least 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States;

(ii) seeks to enter the United States--

(I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,

(II) before October 1, 2008, in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or

(III) before October 1, 2008, in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986) at the request of the organization in a religious vocation or occupation; and

(iii) has been carrying on such vocation, professional work, or other work continuously for at least the 2-year period described in clause (i).

8 C.F.R. § 204.5(m)(3)(i) requires the petitioner to submit evidence that the organization qualifies as a non-profit organization in the form of either:

(A) Documentation showing that it is exempt from taxation in accordance with section 501(c)(3) of the Internal Revenue Code of 1986 as it relates to religious organizations (in appropriate cases, evidence of the organization's assets and methods of operation and the organization's papers of incorporation under applicable state law may be requested); or

(B) Such documentation as is required by the Internal Revenue Service to establish eligibility for exemption under section 501(c)(3) of the Internal Revenue Code of 1986 as it relates to religious organizations.

The Form I-360 petition shows a Los Angeles, California address for the petitioning entity. The initial filing included a letter from [REDACTED], Treasurer, dated September 22, 2005. The letterhead of this letter shows an address in New York, New York. [REDACTED] stated that the petitioner "is a Non-Profit Corporation organized in the State of New York," and "is also registered in the State of California as a Non-Profit Corporation." The petitioner submitted a copy of a "Certificate of Qualification," issued by the California Department of State, which refers to the petitioner as "a corporation organized and existing under the laws of New York." [REDACTED] stated that the petitioner operates "one hundred and four (104) Churches in the United States." [REDACTED] identified one of those churches, in San Bernardino, California, as the location of the beneficiary's intended employment.

The petitioner also submitted a copy of a March 2, 2004 letter from the Internal Revenue Service (IRS), addressed to the petitioning church at [REDACTED], New York, New York. The letter shows the petitioner's federal employer identification number (EIN) as [REDACTED]. The IRS's letter reads, in part: "In October 1989 we issued a determination letter that recognized your organization as exempt from federal income tax. Our records indicate that your organization is currently exempt under section 501(c)(3) of the Internal Revenue Code." The letter does not indicate that the church and its subordinate entities are all covered by a group exemption.

IRS Form W-3 Transmittals of Wage and Tax Statements indicate that the New York church, with EIN [REDACTED], reported the payment of nearly \$4 million in salaries and wages in 2002, over \$4.8 million in 2003, and more than \$5.2 million in 2004. IRS Form W-2 Wage and Tax Statements issued to the beneficiary for 2003 and 2004 identify the beneficiary's employer as the church in New York, including the same address and EIN shown on the IRS letter of 2004.

The petitioner submitted a "List of Churches in United States," showing locations in California, Texas, Illinois, and other states. The list shows the address shown on the Form I-360 petition, and the San Bernardino address listed as the beneficiary's place of employment. A deed reproduced in the record shows that the petitioner, "A New York Non-Profit Corp.," holds title to the San Bernardino property identified as the church where the beneficiary works.

On March 1, 2006, the director issued a request for evidence concerning various issues. The director stated that, while the petitioner listed a Los Angeles address on the Form I-360 petition, the IRS letter from 2004 shows a New York address. The director instructed the petitioner to "provide evidence that your religious organization qualifies as a nonprofit religious organization. (Note: You may submit a directory if the petitioner has a group exemption approval)" (director's emphasis).

In response, the petitioner submitted a new letter from [REDACTED] at the New York church, along with copies of various documents. [REDACTED] stated that the petitioner "is not a group of religious organizations, rather it is one religious organization only" (emphasis in original).

The director denied the petition on September 29, 2006, citing only one ground for denial, specifically the petitioner's failure to provide an IRS letter showing that the church at the address shown on the Form I-360 is a tax-exempt nonprofit religious organization. The director stated that the IRS letter issued to the church in New York was issued "to an individual church (not a central church)." The director concluded that the petitioner had not established that the church in California qualifies as a 501(c)(3) tax-exempt religious organization.

On appeal, the petitioner submits a legal opinion from the law firm of [REDACTED] (the individual author is not identified), indicating that the petitioner's "individual locations do not require and are not eligible to obtain independent recognition of tax exempt status. As mere points of operation for the Church, rather than separate entities, the locations fall under the recognition of tax-exempt status granted to the Church." We concur with this reasoning. As noted previously, the petitioner's corporate documents and the beneficiary's tax records consistently identify the employer as the church in New York. An audited financial statement submitted with the initial filing indicates that, in 2004, the New York-based church paid over \$17.4 million for "Purchases of Churches and buildings," over \$6.6 million for "Rent of churches and parsonages" and over \$5.9 million in "Salaries and wages." These expenses are consistent with a large organization with a sizeable number of employees, operating at a number of locations. The statement also indicates that the petitioner owns land in New York, California, and numerous other states and territories of the United States.

We note that the letter identifies an IRS employee as having provided certain information. The record contains no statement from that individual, but counsel urges the AAO to contact that individual "to verify." The burden of proof is on the petitioner to provide supporting evidence. Neither the AAO nor any other immigration authority is required to pursue research or verification on the petitioner's behalf. It cannot suffice for the petitioner simply to identify a witness and urge contact with that witness. Because the record contains nothing from the identified IRS official, we consider claims regarding that official's assertions to be unsubstantiated and thus lacking evidentiary weight. Nevertheless, the evidence present in the record amply supports a finding in the petitioner's favor regarding the tax exemption issue.

The evidence readily shows that all of the church's locations are not merely subsidiaries of a central office, but rather they all, collectively, constitute a single corporate entity. The beneficiary's employer is a New York-based church that, in turn, is clearly identified as tax-exempt on IRS correspondence in the record. The absence of a group exemption letter does not cast doubt on the tax-exempt status of the local churches where the beneficiary works or has worked. We find that the director's sole stated basis for denial is without foundation, and the AAO will therefore withdraw that finding. Review of the record reveals no other obvious ground that would warrant denial of the petition.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has met that burden. Accordingly, the decision of the director denying the petition will be withdrawn and the petition will be approved.

**ORDER:** The appeal is sustained and the petition is approved.