



U.S. Citizenship
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FILE: WAC 06 269 54066 Office: CALIFORNIA SERVICE CENTER Date: **JAN 01 2007**

IN RE: Petitioner:
Beneficiary:

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:



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.

Maura Deadnik
for Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the employment-based immigrant visa petition and certified the decision to the Administrative Appeals Office (AAO) for review. The AAO will withdraw the decision of the director and approve the petition.

The petitioner is a branch of the Church of Scientology International. 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 member of the Sea Organization (Sea Org), a religious order of the Church of Scientology. The director determined that the petitioner had failed to establish that it is a qualifying tax-exempt religious organization.

8 C.F.R. § 204.5(m)(3)(i) requires the petitioner to submit evidence that the intending employer 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 petitioner submitted a determination letter from the Internal Revenue Service (IRS), dated October 1, 1993, indicating that the Church of Scientology Flag Service Org., Inc., of [REDACTED] Clearwater, Florida, is "exempt from federal income tax . . . as an organization described in section 501(c)(3)" of the Internal Revenue Code of 1986. The 1993 IRS letter lists the exempt organization's Employer Identification Number (EIN) as [REDACTED]

The Form I-360 petition lists the petitioner's address as [REDACTED], Clearwater, Florida. The name and EIN of the petitioning organization both match those shown on the 1993 IRS letter.

On February 12, 2007, the director issued a request for evidence, stating that the petitioner had "only shown that the [REDACTED] address is exempt from Federal income tax." The director requested "documentary evidence that the petitioner's [REDACTED] location qualifies as a nonprofit religious organization."

In response, the petitioner stated that, while the petitioner's "principal place of business changed location," the petitioner's tax-exempt status "remains unchanged." The petitioner submitted documentation from the Pinellas County Property Appraiser indicating that the petitioner, located at the [REDACTED] address, owns the property at the [REDACTED] address. Other property tax documentation establishes that 95.2% of the property at the [REDACTED] address is used for tax-exempt purposes, whereas 73% of the [REDACTED] address is used for tax-exempt purposes.

The director denied the petition on April 12, 2007, stating that the documentation “clearly proves that the petitioning address is exempt from State tax and both locations are under the same ownership. However, there was no group ruling included that will identify that the location in question qualifies under the 1993 IRS ruling for [REDACTED]” The director added that the petitioner did not simply change addresses, as the new documents show that the church continues to use both addresses. The director acknowledged that the two addresses use the same EIN, but concluded that this did not prove that the entity on [REDACTED] is “covered under a group tax exemption granted to the [REDACTED] location.”

Upon review, we find that the petitioner has adequately established that the petitioner is a single, corporate entity operating from various addresses, rather than a group of quasi-independent entities scattered throughout Clearwater. The shared EIN demonstrates the corporate unity of the organization and shows that the IRS considers the entities at both addresses to be the same employer for tax purposes.

Group exemptions apply when a number of churches are grouped under the collective umbrella of a parent organization, such as when a local Roman Catholic church falls under the aegis of the group exemption granted to the Roman Catholic Church as a whole. Here, while the petitioning organization is arguably subordinate to the Church of Scientology International, the petitioner has incorporated separately and sought its own tax-exempt status, rather than seeking coverage under a group exemption.

We find that the available materials are sufficient to establish, by preponderance of evidence, that the various individual locations controlled by the petitioning entity are all part of a single corporate entity, and are all covered by the 1993 IRS determination letter sent to the [REDACTED] address. (Indeed, the available evidence suggests that, while non-exempt activities occur at both locations, such activities are more prevalent at the [REDACTED] address on the IRS letter than at the petitioner’s current principal address on [REDACTED]. The director has not cited any tax law or derogatory evidence to support the assertion that the 1993 IRS letter does not cover the petitioner’s offices at the [REDACTED] address.

We withdraw the director’s finding regarding the petitioner’s tax-exempt status. Because that finding was the sole basis for the denial of the petition, we hereby withdraw the director’s decision.

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 director’s decision of April 12, 2007 is withdrawn and the petition is approved.