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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Office of Administrative Appeals MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

C1

APR 02 2010

FILE:

WAC 07 236 53903

Office: CALIFORNIA SERVICE CENTER

Date:

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.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).



Perry Rhew

Chief, Administrative Appeals Office

**DISCUSSION:** The Director, California Service Center, denied the employment-based immigrant visa petition. The petitioner appealed the decision to the Administrative Appeals Office (AAO). The AAO subsequently remanded the petition to the director for a new decision based on revised regulations. The director determined that the petitioner had failed to submit required evidence, and therefore the director again denied the petition and certified the decision to the AAO. The AAO will affirm the director's decision.

The petitioner is identified as a church of the Catholic Assyrian Christian denomination. 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 director of religious music and church youth groups. The director determined that the petitioner failed to establish: (1) that the beneficiary possesses what the petitioner described as the minimum required experience for the position; (2) that the beneficiary continuously performed qualifying religious work throughout the two years immediately preceding the filing of the petition; or (3) its qualifying status as a tax-exempt religious organization.

On appeal, the petitioner submits arguments from counsel and copies of previously submitted documents.

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 September 30, 2012, 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 September 30, 2012, 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).

#### TAX-EXEMPT STATUS

The first issue we will address in this decision concerns the petitioner's tax-exempt status. The U.S. Citizenship and Immigration Services (USCIS) regulation at 8 C.F.R. § 204.5(m)(8) reads, in full:

*Evidence relating to the petitioning organization.* A petition shall include the following initial evidence relating to the petitioning organization:

- (i) A currently valid determination letter from the Internal Revenue Service (IRS) establishing that the organization is a tax-exempt organization; or
- (ii) For a religious organization that is recognized as tax-exempt under a group tax-exemption, a currently valid determination letter from the IRS establishing that the group is tax-exempt; or
- (iii) For a bona fide organization that is affiliated with the religious denomination, if the organization was granted tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986, or subsequent amendment or equivalent sections of prior enactments of the Internal Revenue Code, as something other than a religious organization:
  - (A) A currently valid determination letter from the IRS establishing that the organization is a tax-exempt organization;
  - (B) Documentation that establishes the religious nature and purpose of the organization, such as a copy of the organizing instrument of the organization that specifies the purposes of the organization;
  - (C) Organizational literature, such as books, articles, brochures, calendars, flyers and other literature describing the religious purpose and nature of the activities of the organization; and
  - (D) A religious denomination certification. The religious organization must complete, sign and date a religious denomination certification certifying that the petitioning organization is affiliated with the religious denomination. The certification is to be submitted by the petitioner along with the petition.

The petitioning entity is located in Turlock, California. On the Form I-360 petition, under "IRS Tax #" (also known as an Employer Identification Number [EIN]), the petitioner listed the number [REDACTED]

The petitioner submitted a copy of a letter from the IRS, dated August 15, 2005, confirming that IRS had issued a determination letter in April 1992 to verify the tax-exempt status of the [REDACTED] located on [REDACTED] in "Tarzane" (*sic*), California. The letter shows the EIN [REDACTED]. The letter does not indicate that the church in Tarzana holds a group exemption that covers additional churches.

The initial submission also included IRS Form 1099-MISC Miscellaneous Income statements indicating that the [REDACTED] with EIN [REDACTED] paid the beneficiary \$18,000 in 2005 and \$16,800 in 2006. The only address provided for the church was a post office box in Turlock. The differing addresses and EINs indicate that the church in Tarzana is a different entity from the petitioner in Turlock.

On September 8, 2007, the director issued a request for evidence (RFE). The director instructed the petitioner to submit photographs of the church at the address stated on the Form I-360. The director also noted that the IRS letter submitted with the petition did not establish the tax-exempt status of the petitioning entity in Turlock.

In response, the petitioner submitted photographs showing a church building and a sign that reads:



\* \* \*



Prior counsel stated:

The letter from [the] Internal Revenue Service . . . shows the tax exemption of the group known as Holy Apostolic Catholic Assyrian Church of Diocese of Western United States, Church of the East. It should be noted that the name [REDACTED] is the name of the local Parish in Turlock, California. . . . Further, the church address shown on the letter of exemption is that of a sister church located in Tarzana, California. However, all these parishes are . . . under the ambit of a group exemption approval.

The petitioner submitted a copy of IRS Publication 1828, *Tax Guide for Churches and Religious Organizations*. Page 3 of that publication includes this passage:

A church with a parent organization may wish to contact the parent to see if it has a *group ruling*. If the parent holds a group ruling, then the IRS may already recognize

the church as tax exempt. Under the group exemption process, the parent organization becomes the holder of a group ruling that identifies other affiliated churches or other affiliated organizations. A church is recognized as tax exempt if it is included in a list provided by the parent organization. The parent is then required to submit an annual group exemption update to the IRS in which it provides additions, deletions, and changes within the group. If the church or other affiliated organization is included on such a list, it does not need to take further action to obtain recognition of tax-exempt status.

An organization that is not covered under a group ruling should contact its parent organization to see if it is eligible to be included in the parent's application for the group ruling.

It is clear from the above information that a group ruling is neither automatic nor presumed. If the IRS does not specifically mention a group ruling, then there is no presumption that such a group ruling exists. Affiliation with a recognized tax-exempt organization does not inevitably confer tax-exempt status on the affiliated organization.

The petitioner did not submit any "list provided by the parent organization" or any annual update to show that the petitioner is, in fact, covered by a group ruling. As noted previously, the 2005 IRS letter does not mention any group exemption. The unsupported assertions of counsel do not constitute evidence. See *Matter of Obaigbena*, 19 I&N Dec. 533, 534 n.2 (BIA 1988); *Matter of Laureano*, 19 I&N Dec. 1, 3 n.2 (BIA 1983); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980). The petitioner is demonstrably aware of the requirements relating to group rulings, having submitted a copy of IRS Publication 1828, but the record contains no evidence that the petitioner has met those requirements.

The petitioner submitted a copy of a letter from the United States Postal Service (USPS), indicating that its "application for Nonprofit Standard Mail rate mailing privileges has been approved." This letter is not first-hand evidence of the petitioner's qualifying non-profit, tax-exempt status, because the controlling regulations require evidence from the IRS, not from the USPS. The record does not show that evidence the USPS requires for "Nonprofit Standard Mail rate mailing privileges."

The director denied the petition on March 18, 2008, in part because "the petitioner has not established that the organization seeking the beneficiary's services is exempt from taxation."

On appeal, the petitioner submitted a letter from [REDACTED], who stated:

[T]his office represents the Holy Apostolic Catholic Assyrian Church of the East. As legal counsel for said Church, I am authorized to respond to any inquiries regarding the status of the Church and its affiliates.

[REDACTED] is a member of this Church, identified as one of the parishes within the Diocese of Western United States. . . .

[T]he current by-laws of the diocesan corporation . . . identif[y] the [REDACTED] as an affiliate church. The corporation utilizes the tax identification number issued by the IRS for all affiliate churches.

The constitution of the diocese, dated May 16, 2006, lists [REDACTED] among its member churches in Article Nine: Duties of the Diocesan Committee.

The petitioner submitted a copy of the April 3, 1992 IRS determination letter that was mentioned in the subsequent IRS letter of 2005. The 1992 determination letter does not refer to any group ruling, or indicate that any affiliated or subsidiary churches are covered by the exemption.

Prior counsel protested: "it is difficult to obtain IRS letters addressed to each Parish." It is not necessary to obtain separate letters for each parish, provided that the umbrella organization applies for and receives a group ruling from the IRS. The application for such a ruling would include a list of covered organizations. Thereafter, the group ruling letter and the accompanying list would serve as acceptable evidence of the tax-exempt status of each organization named on that list.

The AAO remanded the petition on December 12, 2008, for consideration under new regulations published on November 26, 2009. On February 4, 2009, the director issued a notice that included the complete text of 8 C.F.R. § 204.5(m)(8).

In response to the director's February 2009 notice, the petitioner resubmitted copies of previously submitted materials and documentation of the petitioner's state, not federal, tax-exempt status. The petitioner did not submit an IRS letter to verify either the tax-exempt status of the petitioning entity or the existence of a group ruling that covered the petitioning entity.

On July 15, 2009, the director denied the petition, in part because the petitioner had not submitted required evidence to show that the 1992 IRS determination letter in the record applies to the petitioning church. In response to the certified decision, the petitioner submits copies of the documents submitted in response to the February 2009 notice. Counsel states that "the record now contains clear evidence that the petitioner is recognized as a tax-exempt non-profit organization and meets the requirements of 8 C.F.R. 204.5(m)(8)."

Counsel does not explain how this is the case. The record contains no IRS determination letter relating specifically to the petitioning entity. Therefore, the petitioner has not satisfied 8 C.F.R. § 204.5(m)(8)(i) or (iii), both of which require such a letter. The record also contains no evidence of an IRS group ruling that covers the petitioner. Therefore, the petitioner has not satisfied 8 C.F.R. § 204.5(m)(8)(ii). It appears that, throughout this proceeding, the petitioner and counsel have presumed that the IRS letter issued to a separate church should be treated as proof of a group ruling, even though nothing in the record supports that presumption. The petitioner even submitted a copy of IRS Publication 1828, which plainly distinguishes between an individual ruling and a group ruling, but the petitioner has failed to acknowledge this key distinction.

We agree with the director's finding that the petitioner has failed to submit the required evidence of qualifying tax-exempt status. We emphasize that this is not a finding that the petitioner is definitely not a church, or that the petitioner definitely does not qualify for tax-exempt status. At issue, here, is whether the petitioner has met its burden of proof by submitting specific documentation identified in the regulations. The petitioner has not met that burden.

## QUALIFICATIONS

The next issue concerns the beneficiary's qualifications for the position offered to him. 8 C.F.R. § 204.5(m)(7)(ix) requires the petitioner to attest to the beneficiary's qualifications for the position. An unsigned document indicates that the position's "[t]raining requirement is 10 years in music and choir conducting both in the Assyria[n] language."

[REDACTED] in Gothenburg, Sweden, stated in a 2004 letter that the beneficiary "has been a member of this church since December 1997, and that he has been an active member of the church. He can play organ with the choir at the church and at church functions." [REDACTED] did not state how frequently the beneficiary performed this function; only that the beneficiary "can play organ."

[REDACTED] from 1999 to 2001, stated that the beneficiary was "the Assistant Music and Choir Director of our parish."

Subsequently, evidence appeared that led the director to doubt that the beneficiary had the required ten years of experience. When the beneficiary applied for his R-1 nonimmigrant visa in Sweden in 2004, he completed Department of State Form DS-157, Supplemental Nonimmigrant Visa Application. The form indicated that the beneficiary had been a truck driver for Manpower from October 2000 to October 2001, and a railroad train maintenance worker from November 2001 to May 2004. The beneficiary claimed no employment after 2004, listing his "Present Occupation" as "unemployed - Disabled."

The beneficiary signed his visa application form, thereby asserting that his answers "are true and correct to the best of my knowledge and belief." Prior counsel prepared the application form.

In the March 2008 decision, the director stated:

the beneficiary did not list any religious qualifications or religious employment in his R1 application. It has not been established that the beneficiary has the requisite 10 years in music and choir conducting both in the Assyria[n] language. Therefore, the petitioner has not established that the beneficiary . . . [meets] the petitioner[']s own training requirements."

On appeal, the petitioner submitted witness letters attesting to the beneficiary's training. [REDACTED] of Gothenburg, Sweden, stated: "I have been [the beneficiary's] music instructor since 1997.

I taught him how to play the organ. I also taught him how to direct the music in Assyrian and voice control for Assyrian hymns. . . . [He] has volunteered for the church since 1998.”

— Diocese of Europe and Western California, stated:

I have know[n] [the beneficiary] and his family for many years. He has been an active member of our St. George parish in Gothenburg – Sweden. While in Sweden, [the beneficiary] was taught music by a qualified and private instructor,

[The beneficiary] has also been an active member in our parish of Mar Addai, in Turlock. On various occasions that I have celebrated communion there, he was present playing music for our church choir.

The director’s notice of February 2009 did not address the training issue. In the certified denial issued July 2009, the director repeated language from the March 2008 decision. Counsel, in response to the decision, stated that the petitioner had already submitted sufficient evidence to establish the beneficiary’s eligibility.

It is important to note that the petitioner had never claimed that the position required ten years of employment in the field of religious music. Rather, the petitioner had referred to a “[t]raining requirement.” There is nothing particularly dubious about the claim that the beneficiary began taking music lessons in 1997, or that he had since volunteered at his local church. The record contains no evidence of this training apart from a letter from his music teacher, but it is not clear what other sort of evidence would exist.

The director was diligent in consulting the beneficiary’s R-1 visa application, and the information on that form justified further inquiry into the issue. We find, however, that the petitioner’s subsequent submissions establish that the beneficiary possesses the level of training that the petitioner claims is required for the position. We will withdraw the director’s finding to the contrary.

## TWO YEARS EXPERIENCE

The final issue to consider relates to the beneficiary’s qualifying employment experience. The USCIS regulation at 8 C.F.R. § 204.5(m)(4) requires the petitioner to show that the beneficiary has been working as a minister or in a qualifying religious occupation or vocation, either abroad or in lawful immigration status in the United States, continuously for at least the two-year period immediately preceding the filing of the petition. The petition was filed on August 1, 2007. Therefore, the petitioner must establish that the beneficiary was continuously performing qualifying religious work throughout the two years immediately prior to that date.

The USCIS regulation at 8 C.F.R. § 204.5(m)(11) reads:

(11) *Evidence relating to the alien's prior employment.* Qualifying prior experience during the two years immediately preceding the petition or preceding any acceptable break in the continuity of the religious work, must have occurred after the age of 14, and if acquired in the United States, must have been authorized under United States immigration law. If the alien was employed in the United States during the two years immediately preceding the filing of the application and:

- (i) Received salaried compensation, the petitioner must submit IRS documentation that the alien received a salary, such as an IRS Form W-2 or certified copies of income tax returns.
- (ii) Received non-salaried compensation, the petitioner must submit IRS documentation of the non-salaried compensation if available.
- (iii) Received no salary but provided for his or her own support, and provided support for any dependents, the petitioner must show how support was maintained by submitting with the petition additional documents such as audited financial statements, financial institution records, brokerage account statements, trust documents signed by an attorney, or other verifiable evidence acceptable to USCIS.

If the alien was employed outside the United States during such two years, the petitioner must submit comparable evidence of the religious work.

[REDACTED] of the petitioning entity, stated that the beneficiary has worked at the petitioning church "since 01/10/2005." As evidence of the beneficiary's past employment with the petitioner, the petitioner submitted copies of IRS Form 1099-MISC Miscellaneous Income statements showing that the petitioner paid the beneficiary \$18,000 in 2005 and \$16,800 in 2006.

Copy of IRS Form 1040EZ income tax returns, signed by the beneficiary and his spouse, identified the beneficiary's occupation as "church worker" and his spouse's occupation as "office work." The joint tax returns showed that the couple's total income was \$18,000 in 2005 and \$16,800 in 2006, which exactly match the amount shown on the beneficiary's Forms 1099-MISC for the respective years. These materials establish the beneficiary's employment in 2005 and 2006, but not 2007.

We note information printed on the tax returns that suggests that both tax returns were prepared, or at least printed, within minutes of each other on February 17, 2007. The record contains no evidence that the beneficiary timely filed his 2005 tax return in early 2006.

In the September 2007 RFE, the director requested evidence of the beneficiary's work history and compensation. In response, the petitioner submitted additional copies of the materials described above. The petitioner also submitted copies of IRS Form 941 quarterly income tax returns for the second and

third quarters of 2007, but these returns only reflect Rev. Wardah's compensation. The beneficiary was paid "nonemployee compensation," reported on IRS Form 1099-MISC, rather than "wages" that would have appeared on IRS Forms 941 and W-2.

The petitioner also submitted copies of several of the beneficiary's 2007 bank statements, showing \$1,400 deposits on January 16, April 4, May 18, June 28, August 9, and October 5. Two other deposits show the handwritten notation "salary" but differ from the usual \$1,400 amount. Specifically, the beneficiary deposited \$1,568.20 on March 5 and \$1,534.78 on June 1. The printed bank statements do not identify the source of the deposits, and there is no documentary evidence that the petitioner was the source of these two deposits.

The director, in denying the petition in March 2008, stated:

The petitioner has submitted the beneficiary's tax returns for the years 2005 and 2006 and Forms 1099 issued by the petitioning organization which match the entire amount of income claimed by the beneficiary on his tax returns. However, the beneficiary's tax returns indicate that the beneficiary's spouse also work[ed] with the listed occupation of "office work." It has not been clarified ho[w] the beneficiary and his spouse both are employed with only the beneficiary's income listed on the tax returns.

Therefore, the evidence is insufficient to establish that the beneficiary has been performing full-time work as a Director of Religious Music and Church Youth Groups for the two-year period immediately preceding the filing of the petition.

Similar language appears in the director's July 15, 2009 certified decision.

The petitioner submitted copies of the beneficiary's amended income tax returns, prepared in April 2008, showing his spouse's occupation as "housewife" and indicating that "she never worked in this country." Like a delayed birth certificate, the amended tax returns created several years after the fact raise serious questions regarding the truth of the facts asserted. *Cf. Matter of Bueno*, 21 I&N Dec. 1029, 1033 (BIA 1997); *Matter of Ma*, 20 I&N Dec. 394 (BIA 1991)(discussing the evidentiary weight accorded to delayed birth certificates in immigrant visa proceedings).

The petitioner submitted no evidence that the beneficiary actually filed the amended tax returns with the IRS, and the petitioner has not explained why the beneficiary's initial tax returns referred to the beneficiary's spouse as an office worker if she did not work. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Commr. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Commr. 1972)).

Of greater concern is the beneficiary's 2007 income. After the 2008 remand order and a request for newly required evidence, the petitioner submitted copies of the beneficiary's IRS Forms 1040EZ and 1099-MISC for 2007. These documents show that the petitioner paid the beneficiary only \$11,650 in

2007, a drop of more than 30% from his 2006 earnings. The petitioner did not explain why the beneficiary's earnings have declined every year since he started working for the petitioner in 2005.

The petitioner submitted copies of processed checks, showing the following payments to the beneficiary:

<u>Date</u>	<u>Amount</u>	<u>Annotation (if any)</u>
11/17/2005	\$3,000.00	August & September
12/25/2005	3,000.00	Salary Nov. & Dec
5/1/2006	1,400.00	
6/5/2006	1,400.00	June Sallary [sic]
7/10/2006	1,400.00	July Salary
8/21/2006	1,400.00	August Salary
10/23/2006	1,400.00	Oct. Salary
11/10/2006	1,400.00	October Salary [sic; check processed 11/9/2006]
12/21/2006	1,400.00	Dec. Salary [check processed 1/17/2006]
2/7/2007	1,400.00	Payroll
4/1/2007	1,400.00	Salary March 2007 [not marked as processed]
5/1/2007	1,400.00	April 2007 Salary (Contractor)
5/21/2007	300.00	[illegible]
6/26/2007	1,400.00	Payroll 6/1 – 6/30
8/8/2007	1,400.00	Salary 7/1 – 7/31
10/4/2007	1,400.00	Salary – Sept 2007
10/26/2007	1,400.00	Oct 1 – Oct 31 Salary
11/19/2007	2,329.00	Keyboard
12/10/2007	1,400.00	Payroll
12/15/2007	450.00	Dec 15, 07 Party

claimed that the church's "paycheck records are missing for October 2005, January 2006, February 2006, March 2006, September 2006, January 2007, March 2007, August 2007, February 2008, April 2008, and May 2008. However, we confirm that [the beneficiary] was employed during those periods."

In considering claims, if we disregard the two checks from May 21 and November 19 (which appear to be reimbursements rather than compensation), the 2007-dated checks listed above add up to \$11,650.00, which is the exact amount shown on the beneficiary's IRS Form 1099-MISC and on his 2007 income tax return. In other words, the IRS documentation submitted by the petitioner leaves no room for three missing payments in 2007 (or for the two irregular deposits in March and June of 2007). We note that, when the beneficiary went so far as to prepare an amended 2007 tax return, he did not amend the amount of his reported income, meaning that the petitioner has twice told the IRS that he earned only \$11,650.00 that year.

Furthermore, the beneficiary's (admittedly fragmentary) bank statements do not show additional deposits beyond the listed checks. Each of the six \$1,400 deposits listed in the bank statements match one of the checks listed above. (Five checks show processing dates that match the bank statement dates. The face of the sixth check, dated 4/1/2007, shows no processing information, but the beneficiary deposited a check in a matching amount on 4/4/2007.) Therefore, the beneficiary's bank statements do not hint at the existence of additional payments in 2007. (As noted previously, two other deposits marked as "salary" are in irregular amounts that do not match the beneficiary's documented salary pattern.)

For us to conclude that the petitioner paid the beneficiary for more than eight months work in 2007, it would not suffice to accept the petitioner's claim that the petitioner lost several months of payroll records. We would also have to assume that the beneficiary, through a highly improbable coincidence, lost his bank statements for the same months, and that both the petitioner and the beneficiary forgot to account for the missing months when (repeatedly) reporting the beneficiary's income to the IRS. We dismiss such a sequence of events as being highly unlikely. The simplest, and therefore most likely, conclusion that we can draw from the available evidence is that the petitioner did not consistently pay the beneficiary during 2007.

The apparent interruption of the beneficiary's compensation suggests a corresponding interruption of the beneficiary's employment. The petitioner has claimed that the beneficiary worked without interruption, but the petitioner has not suggested that the beneficiary worked without pay during some months. Rather, the petitioner claims that the beneficiary consistently drew a salary, but the petitioner's credibility is in question on this point. Doubt cast on any aspect of the petitioner's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the visa petition. *Matter of Ho*, 19 I&N Dec. 582, 591 (BIA 1988). It is incumbent upon the petitioner to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth, in fact, lies, will not suffice. *Id.* at 582, 591-92.

8 C.F.R. § 204.5(m)(11) requires the submission of IRS documentation to establish prior employment. The IRS documentation submitted by the petitioner, combined with pay records, indicates only intermittent compensation during 2007. We therefore affirm the director's core finding that the petitioner has not established that the beneficiary worked continuously throughout the two-year qualifying period immediately preceding the petition's filing date.

The AAO will affirm the denial for the above stated reasons, with each considered as an independent and alternative basis for denial. In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not met that burden.

**ORDER:** The director's decision of July 15, 2009 is affirmed. The petition is denied.