



U.S. Citizenship  
and Immigration  
Services

(b)(6)

DATE: **AUG 04 2015**

FILE #: [REDACTED]

PETITION RECEIPT #: [REDACTED]

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:

NO REPRESENTATIVE OF RECORD

Enclosed is the non-precedent decision of the Administrative Appeals Office (AAO) for your case.

If you believe we incorrectly decided your case, you may file a motion requesting us to reconsider our decision and/or reopen the proceeding. The requirements for motions are located at 8 C.F.R. § 103.5. Motions must be filed on a Notice of Appeal or Motion (Form I-290B) **within 33 days of the date of this decision**. The Form I-290B web page ([www.uscis.gov/i-290b](http://www.uscis.gov/i-290b)) contains the latest information on fee, filing location, and other requirements. **Please do not mail any motions directly to the AAO.**

Thank you,

A handwritten signature in black ink, appearing to read "Ron Rosenberg".

Ron Rosenberg  
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. We will summarily dismiss the appeal.

The petitioner is a church that 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 music. The director found did not provide a valid determination letter from the Internal Revenue Service (IRS) indicating its tax-exempt status. The director determined that the petitioner did not establish that it qualifies as a bona fide religious organization, and denied the petition accordingly.

On appeal, the petitioner explains that it inadvertently created a new entity, [REDACTED], rather than change the church's existing name, [REDACTED]. The petitioner contends that it has filed documentation with the Secretary of State of North Carolina to dissolve the corporation that was formed in error and to clear the issue regarding its tax-exempt status. In addition, the petitioner contends it sent a notice to the IRS informing it of the name change. By letter dated December 26, 2014, the petitioner stated it would submit copies of these documents to us within 30 days. As of the date of this decision, we have received nothing further from the petitioner.

An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal. See 8 C.F.R. § 103.3(a)(1)(v). In this case, the petitioner has not identified any specific, erroneous conclusion of law or statement of fact in the director's decision. The petitioner concedes that it created a new entity rather than change its existing name. In its letter submitted on appeal, the petitioner asserts:

The Tax Exempt Letter issued to [REDACTED], is in fact the tax exempt letter for [REDACTED]. There is only one corporation. . . . In substance there is only one operating entity, one Federal ID Number and one church. Consequently there should be only one corporation.

Nonetheless, the IRS has held that, when a new legal entity is created, each new entity must establish its own exemption. Rev. Rul. 67-390, 1967-2 C.B. 179 (1967). A subsequent Tax Court decision, *American New Covenant Church v. Commissioner*, 74 T.C. 293 (T.C. 1980), cited the 1967 revenue ruling and reaffirmed the core principle that each legal entity requires a separate determination by the IRS. The petitioner does not contend, and the record does not show, that the petitioner, the new entity, has a valid IRS determination letter designating it as a tax-exempt organization.

A visa petition may not be approved based on speculation of future eligibility or after the petitioner or beneficiary becomes eligible under a new set of facts. See *Matter of Michelin Tire Corp.*, 17 I&N Dec. 248 (Reg. Comm. 1978); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Comm. 1971).

The petitioner has not submitted a currently valid determination letter from the IRS establishing that is a bona fide nonprofit religious organization as required by the regulation at 8 C.F.R. § 204.5(m)(8). As the petitioner has not identified any erroneous conclusion of law or statement of fact by the director, the appeal must be summarily dismissed.

In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

**ORDER:** The appeal is summarily dismissed.