

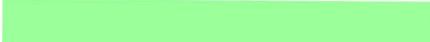
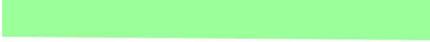


U.S. Citizenship
and Immigration
Services

(b)(6)



DATE: **NOV 18 2014** OFFICE: CALIFORNIA SERVICE CENTER FILE: 

IN RE: Petitioner: 
Beneficiary: 

PETITION: Nonimmigrant Petition for Religious Worker Pursuant to Section 101(a)(15)(R) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(R)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

This is a non-precedent decision. The AAO does not announce new constructions of law nor establish agency policy through non-precedent decisions. If you believe the AAO incorrectly applied current law or policy to your case or if you seek to present new facts for consideration, you may file a motion to reconsider or a motion to reopen, respectively. Any motion must be filed on a Notice of Appeal or Motion (Form I-290B) within 33 days of the date of this decision. **Please review the Form I-290B instructions at <http://www.uscis.gov/forms> for the latest information on fee, filing location, and other requirements. See also 8 C.F.R. § 103.5. Do not file a motion directly with the AAO.**

Thank you,

 Ron Rosenberg
Chief, Administrative Appeals Office

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

The petitioner is a lay missionary organization. It seeks to classify the beneficiary as a nonimmigrant religious worker pursuant to section 101(a)(15)(R) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(R), to perform services as a missionary. The director determined that the petitioner failed to submit any of the regulatorily required initial evidence with the filing of the Form I-129, Petition for a Nonimmigrant Worker, and accordingly denied the petition.

On appeal, the petitioner states that it failed to submit the required initial evidence with the filing of the petition through “human error.” The petitioner submits, in support of the appeal, an Internal Revenue Service (IRS) determination letter granting it tax exempt status under sections 501(c)(3) and 170(b)(1)(A)(vi) of the Internal Revenue Code (IRC). The petitioner further submitted documentation describing the nature of its organization and the work it performs.

Section 101(a)(15)(R) of the Act pertains to an alien who:

- (i) for the 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; and
- (ii) seeks to enter the United States for a period not to exceed 5 years to perform the work described in subclause (I), (II), or (III) of paragraph (27)(C)(ii).

Section 101(a)(27)(C)(ii) of the Act, 8 U.S.C. § 1101(a)(27)(C)(ii), pertains to a nonimmigrant who seeks to enter the United States:

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

The evidence submitted on appeal is insufficient to warrant a grant of the petition. As noted above, the IRS 501(c)(3) determination letter grants the petitioner tax exempt status under section 170(b)(1)(A)(vi) of the IRC. According to documentation from the IRS, the petitioner’s tax-exempt status derives from classification not under section 170(b)(1)(A)(i), which pertains to churches, but rather under section 170(b)(1)(A)(vi), which pertains to publicly-supported organizations as

described in section 170(c)(2) of the IRC, “organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes,” or for other specified purposes. This section refers in part to religious organizations, but to many types of secular organizations as well.

Regarding evidence of the petitioner’s tax-exempt status, the regulation at 8 C.F.R. § 214.2(r)(9) requires the following:

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 IRS showing 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), 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 statement certifying that the petitioning organization is affiliated with the religious denomination. The statement must be submitted by the petitioner along with the petition.

While the petitioner did submit a religious denomination certificate signed by a representative of the [REDACTED] stating that the two organizations are affiliated, the petitioner did not submit a currently valid determination letter from the IRS establishing that the [REDACTED] is a tax-exempt organization as required by the above regulation.

The petitioner also failed to provide evidence that the beneficiary has been a member of the petitioner's denomination as defined in 8 C.F.R. § 214.2(r)(3) for at least two years preceding the filing of the petition herein as required by the Act at section 101(a)(15)(R)(i) and 8 C.F.R. § 214.2(r)(1), evidence that the proffered position meets the definition of a qualifying religious occupation as defined at 8 C.F.R. § 214.2(r)(3), or evidence of how it intends to compensate the beneficiary as required by 8 C.F.R. § 214.2(r)(11). As the petitioner has failed to submit required initial evidence, the appeal must be dismissed.

The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision. 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 dismissed.