The Petitioner, a tax exempt organization, seeks to classify the Beneficiary as a nonimmigrant religious worker to perform the services of a “Manager/Priest in a Religious vocation.” See Immigration and Nationality Act (the Act) § 101(a)(15)(R), 8 U.S.C. § 1101(a)(15)(R). The Director, California Service Center, denied the petition finding that the Petitioner did not establish that it qualifies as a bona fide nonprofit religious organization or a bona fide organization which is affiliated with the religious denomination, and how it intends to compensate the Beneficiary. The matter is now before us on appeal. The appeal will be dismissed.

I. Law

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 regulation at 8 C.F.R. § 214.2(r)(1) states that, to be approved for temporary admission to the United States, or extension and maintenance of status, for the purpose of conducting the activities of a religious worker for a period not to exceed five years, an alien must:

(i) Be a member of a religious denomination having a bona fide non-profit religious organization in the United States for at least two years immediately preceding the time of application for admission;

(ii) Be coming to the United States to work at least in a part time position (average of at least 20 hours per week);

(iii) Be coming solely as a minister or to perform a religious vocation or occupation as defined in paragraph (r)(3) of this section (in either a professional or nonprofessional capacity);

(iv) Be coming to or remaining in the United States at the request of the petitioner to work for the petitioner; and

(v) Not work in the United States in any other capacity, except as provided in paragraph (r)(2) of this section.

The regulation at 8 C.F.R. § 214.2(r)(3) provides the following definitions:

**Bona fide non-profit religious organization in the United States** means a religious organization exempt from taxation as described in section 501(c)(3) of the Internal Revenue Code of 1986, subsequent amendment or equivalent sections of prior enactments of the Internal Revenue Code, and possessing a currently valid determination letter from the Internal Revenue Service (IRS) confirming such exemption.

**Bona fide organization which is affiliated with the religious denomination** means an organization which is closely associated with the religious denomination and which is exempt from taxation as described in 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, and possessing a currently valid determination letter from the IRS confirming such exemption.

**Tax-exempt organization** means an organization that has received a determination letter from the IRS establishing that it, or a group that it belongs to, is exempt from taxation in accordance with sections 501(c)(3) of the Internal Revenue Code . . .

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 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 regulation at 8 C.F.R. § 214.2(r)(11) provides:

Evidence relating to compensation. Initial evidence must state how the petitioner intends to compensate the alien, including specific monetary or in-kind compensation, or whether the alien intends to be self-supporting. In either case, the petitioner must submit verifiable evidence explaining how the petitioner will compensate the alien or how the alien will be self-supporting. Compensation may include:

(i) Salaried or non-salaried compensation. Evidence of compensation may include past evidence of compensation for similar positions; budgets showing monies set aside for salaries, leases, etc.; verifiable documentation that room and board will be provided; or other evidence acceptable to USCIS [U.S.
Citizenship and Immigration Services. IRS documentation, such as IRS Form W-2 [Wage and Tax Statement] or certified tax returns, must be submitted, if available. If IRS documentation is unavailable, the petitioner must submit an explanation for the absence of IRS documentation, along with comparable, verifiable documentation.

(ii) Self support.

(A) If the alien will be self-supporting, the petitioner must submit documentation establishing that the position the alien will hold is part of an established program for temporary, uncompensated missionary work, which is part of a broader international program of missionary work sponsored by the denomination.

(B) An established program for temporary, uncompensated work is defined to be a missionary program in which:

1. Foreign workers, whether compensated or uncompensated, have previously participated in R-1 status;
2. Missionary workers are traditionally uncompensated;
3. The organization provides formal training for missionaries; and
4. Participation in such missionary work is an established element of religious development in that denomination.

(C) The petitioner must submit evidence demonstrating:

1. That the organization has an established program for temporary, uncompensated missionary work;
2. That the denomination maintains missionary programs both in the United States and abroad;
3. The religious worker’s acceptance into the missionary program;
4. The religious duties and responsibilities associated with the traditionally uncompensated missionary work; and
5. Copies of the alien’s bank records, budgets documenting the sources of self-support (including personal or family savings, room and board with host families in the United States, donations from the
II. PERTINENT FACTS AND PROCEDURAL HISTORY

The Petitioner filed the Form I-129, Petition for a Nonimmigrant Worker, on October 28, 2014. The Form I-129 states in Part 5, Section 9, that the Beneficiary will receive no monetary compensation for the proffered position, but will receive “[f]ood, housing and any required miscellaneous expenses.” The signatory of the petition stated in Section 9 that her spouse, the Petitioner’s corporate secretary, is employed and will provide for the Beneficiary’s expenses. Part 5, Section 12, of the petition indicates that the Petitioner has no employees and a gross annual income of between $0 and $500.

With the petition, the Petitioner submitted a March 9, 2011, IRS determination letter which stated that the Petitioner was exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code effective October 15, 2007. The IRS classified the Petitioner as an organization described in section 170(b)(1)(A)(vi) (a publicly supported organization) of the Internal Revenue Code. The Petitioner also submitted a copy of a 2013 Form W-2 issued to the Petitioner’s corporate secretary showing wages paid to him of $89,377.66.

The Director issued a notice of intent to deny (NOID) the petition on December 3, 2014, stating, in part, that the Petitioner’s tax exempt status had been revoked by the IRS effective May 15, 2014. The Director also stated that the Petitioner had not demonstrated how it would be able to support the Beneficiary, noting that the Petitioner had not provided verifiable information of its ability to provide food, housing and miscellaneous expenses for the Beneficiary. In response to the NOID, the Petitioner acknowledged that its tax exempt status had been revoked but stated it had filed a new IRS Form 1023, Application for Recognition of Exemption under Section 501(c)(3) of the Internal Revenue Code, seeking reinstatement of its tax exempt status. The Petitioner also provided a 2014 monthly expense budget for the signatory’s family.

On appeal, the Petitioner states that the signatory’s family has sufficient income to provide for the Beneficiary’s nonmonetary compensation. The Petitioner submits a copy of its secretary’s 2014 Form W-2 and an April 6, 2015, letter from its secretary’s employer, indicating that he has been a full-time employee of that organization since April 18, 1988, and earns in excess of $99,000 annually. The Petitioner also submits an April 23, 2015, letter from the IRS indicating the IRS reinstated the Petitioner’s federal tax exemption retroactive to May 15, 2014, the date of the revocation.

III. ANALYSIS

A. Bona Fide Non-Profit Religious Organization

Evidence of record indicates that the Petitioner’s tax-exempt status under section 501(c)(3) of the Internal Revenue Code was revoked because it failed to file the required annual returns. The
Petitioner submits, on appeal, a currently valid determination letter from the IRS establishing that it is a tax exempt organization, and that the revocation of its tax exempt status has been rescinded retroactive to the date of the revocation (May 15, 2014). The evidence therefore sufficiently establishes that the Petitioner was a tax exempt organization when the petition was filed on October 28, 2014. The evidence submitted, however, does not establish that the Petitioner was granted tax exempt status as a religious organization. The IRS classified the Petitioner as an organization described in section 170(b)(1)(A)(vi) (a publicly supported organization) of the Internal Revenue Code. Organizations granted tax exempt status under that classification may or may not be religious organizations. The Petitioner must, therefore, establish that it is a religious organization as required by the regulation at 8 C.F.R. § 214.2(r)(3).

The only evidence submitted in this regard are the Petitioner’s Articles of Incorporation, and its uncorroborated statements in its brief on appeal and in its Form 1023 stating that it is a religious organization. The Articles of Incorporation reflect only the Petitioner’s statements about the purpose of the corporation but nothing in the record supports that the Petitioner has acted in accordance with its articles. The Petitioner has not submitted persuasive evidence of its religious nature and purpose such as books, articles, brochures, calendars, flyers or other documentation describing its religious purpose and the nature of the activities of the organization.

The Petitioner has submitted insufficient evidence to establish that it qualifies as a bona fide nonprofit religious organization or a bona fide organization which is affiliated with the religious denomination as required by the regulation at 8 C.F.R. § 214.2(r)(9). Accordingly, the petition may not be approved.

B. Compensation

The Petitioner indicates on the Form I-129 that it will provide nonmonetary compensation for the Beneficiary in the form of “[f]ood, housing[,] and any required miscellaneous expenses.” The Petitioner did not submit any evidence of its ability to provide the stated compensation and acknowledges on appeal that it receives less than $1,000 per year in donations. The Petitioner indicates on the Form I-129 that its gross annual income is between $0 and $500. The Petitioner has, therefore, submitted insufficient evidence to establish how it will compensate the Beneficiary.

While the Petitioner states that its secretary will provide the nonmonetary compensation listed in the petition, it is unclear from the record whether the Petitioner is asserting that the Beneficiary will be self-supporting. Even if this were the Petitioner’s intent, it has submitted insufficient evidence to establish the Beneficiary’s ability to support himself throughout his period of intended stay in this country. Furthermore, if the Beneficiary will be self-supporting, the regulation at 8 C.F.R. § 214.2(r)(11)(ii) requires the Petitioner to establish that the position the Beneficiary will hold is part of an established program for temporary, uncompensated missionary work, which is part of a broader international program of missionary work sponsored by the Petitioner. To establish that it has an established program for temporary, uncompensated missionary work, the Petitioner must show that it has employed foreign workers in R-1 visa status, its missionaries are traditionally uncompensated, it provides formal training for missionaries, and participation in its missionary work
is an established element of religious development within its organization. The Petitioner would be required to demonstrate that it maintains missionary programs both in the United States and abroad, that the Beneficiary was accepted into its missionary program, and the duties and responsibilities associated with the uncompensated missionary work. The Petitioner must also provide copies of the Beneficiary’s financial documents or other records demonstrating the Beneficiary’s ability to provide for his own support. The Petitioner does not assert that it has or supports a program for temporary uncompensated missionary work which is part of a broader international program of missionary work, and it offers no evidence in this regard. The Petitioner has, therefore, submitted insufficient evidence to show that the Beneficiary will be self-supporting.

VI. CONCLUSION

The Petitioner has provided insufficient evidence to establish that it qualifies as a bona fide nonprofit religious organization or a bona fide organization which is affiliated with the religious denomination as defined by the regulation at 8 C.F.R. § 214.2(r)(3), or how it intends to compensate the Beneficiary as required by the regulation at 8 C.F.R. § 214.2(r)(11). 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 Otieno, 26 I&N Dec. 127, 128 (BIA 2013). Here, that burden has not been met.

ORDER: The appeal is dismissed.