



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

MATTER OF T-V-T-L-B-C-, INC.

DATE: AUG. 11, 2016

APPEAL OF CALIFORNIA SERVICE CENTER DECISION

PETITION: FORM I-129, PETITION FOR A NONIMMIGRANT WORKER

The Petitioner is a Buddhist temple that seeks to employ the Beneficiary as an assistant monk. This nonimmigrant religious worker classification allows non-profit religious organizations, or their affiliates, to temporarily employ foreign nationals as ministers or in other religious occupations or vocations in the United States. *See* Immigration and Nationality Act (the Act) § 101(a)(15)(R), 8 U.S.C. § 1101(a)(15)(R).

The Director of the California Service Center denied the petition, finding that the Petitioner did not establish how it will provide the Beneficiary with the non-salaried compensation it indicated it would provide. Specifically, the Director concluded that the Petitioner did not submit Internal Revenue Service (IRS) documentation or an explanation for its absence, as required by 8 C.F.R. § 214.2(r)(11)(i).

The matter is now before us on appeal. The Petitioner states it will provide the Beneficiary with food and living quarters. It submits additional evidence on appeal.

Upon *de novo* review, we will dismiss the appeal.

#### I. RELEVANT LAW AND REGULATIONS

Non-profit religious organizations may petition for foreign nationals to work in the United States for up to five years to perform religious work as ministers, in religious vocations, or in other religious occupations. The petitioning organization must establish, among other requirements, that the foreign national beneficiary has been a member of its religious denomination for at least the two-year period before the date the petition is filed. *See generally* section 101(a)(15)(R) of the Act, 8 U.S.C. § 1101(a)(15)(R).

The regulation at 8 C.F.R. § 214.2(r)(11) addresses the specific evidence required to establish the Petitioner's intent to compensate the Beneficiary and provides, in part:

*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. PERTINENT FACTS AND PROCEDURAL HISTORY

In its initial letter submitted with the religious worker petition, the Petitioner explained that as an assistant monk, the temple would be responsible for all of the Beneficiary's needs, including transportation, food, lodging, and other living expenses. It submitted, among other things: an IRS Form 990, Return of Organization Exempt from Income Tax; a copy of an IRS tax determination letter; and a list of its congregants. The Director issued a request for evidence (RFE) seeking, in part, additional documents addressing compensation. The Director stated that the Form 990 was uncertified and did not include any monetary figures for employee benefits. She noted that the Petitioner did not explain how this tax form reflects evidence of compensation. She requested additional IRS documentation if available, and if not, an explanation for its absence.

The Petitioner responded to the RFE with a letter from a Buddhist temple in Vietnam, attesting to the Beneficiary's monkhood there. It explained that as a Buddhist nun, the Beneficiary has taken a vow of poverty and should never be compensated with money. It stated that, "[a]s tradition holds, Buddhist disciples [sic] in Vietnam bring weekly offerings to the monks and nuns during ceremonies, such as food, drink and living necessities."

The Director denied the petition, stating that the issue was whether the Petitioner submitted IRS documentation of compensation, or an explanation for its absence along with comparable, verifiable documentation. Among other things, the Director specified that under Part 1, Item 15 of the Form 990 that the Petitioner initially submitted, there were no monetary amounts listed for employee benefits. Citing 8 C.F.R. § 214.2(r)(11)(i), the Director concluded that the Petitioner did not submit the required IRS documentation or an explanation for its absence.

Currently, on appeal, the Petitioner submits a letter and includes "evidence relating to the qualifications and work history of a minister" and "information about the religious organization." As for "evidence pertaining to compensation," the Petitioner writes, "As indicat[ed] in [the petition, the Beneficiary] will not be compensated with wages for proposed employment, instead she will be provided with food, living quarters."

### III. ANALYSIS

The Petitioner has not addressed the Director's specific reason for denying the petition. As required by 8 C.F.R. § 214.2(r)(11)(i), the Petitioner must submit IRS documentation, such as a certified tax return, if available. In this case, the Petitioner initially submitted an unsigned and uncertified Form 990. Despite the Director's RFE explicitly addressing the Form 990, the Petitioner did not mention this tax form in its response. Likewise, on appeal, the Petitioner does not address IRS documentation in any way or provide an explanation for the lack of such documents.

Although the Petitioner does submit some financial documents on appeal, including a copy of its bank account statement, a credit card bill, a water bill, an electric bill, a utility bill, and copies of five checks, the record remains insufficient to establish how it intends to provide the non-salaried compensation it claims it would. For instance, there is no deed in the record showing that the Petitioner owns property where it could provide housing to the Beneficiary. There is no evidence that the petitioning organization owns a car such that it could provide the Beneficiary with the transportation it maintains it would provide. There is no budget in the record and no evidence of any income or revenue the temple receives.

The Act places the burden of proving eligibility for entry or admission to the United States on the Petitioner. See Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Otiende*, 26 I&N Dec. 127, 128 (BIA 2013). Considering the record in its entirety, we find that the Petitioner has not established its intent to compensate the Beneficiary the non-salaried compensation it claims it would pay.

### IV. CONCLUSION

For the reasons discussed above, the Petitioner has not submitted IRS documentation or an explanation for its absence, along with comparable, verifiable documentation explaining how it will compensate the Beneficiary, as required under 8 C.F.R. § 214.2(r)(11)(i).

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, the Petitioner has not met that burden. Accordingly, we will dismiss the appeal.

**ORDER:** The appeal is dismissed.

Cite as *Matter of T-V-T-L-B-C-, Inc.*, ID# 10199 (AAO Aug. 11, 2016)