



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

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

In Re: 23653818

Date: JAN. 19, 2023

Appeal of California Service Center Decision

Form I-360, Petition for Special Immigrant Religious Worker

The Petitioner, a religious organization, seeks to classify the Beneficiary as a special immigrant religious worker to perform services as a church planter under the minister category. *See* Immigration and Nationality Act (the Act) section 203(b)(4), 8 U.S.C. § 1153(b)(4). This immigrant classification allows non-profit religious organizations, or their affiliates, to employ foreign nationals as ministers, in religious vocations, or in other religious occupations, in the United States. *See* Section 101(a)(27)(C)(ii) of the Act, 8 U.S.C. § 1101(a)(27)(C)(ii).

The Director of the California Service Center denied the petition, concluding that the Petitioner did not submit a currently valid IRS determination letter, as required by 8 C.F.R. § 204.5(m)(8). As such, the Director determined that the Petitioner did not establish its eligibility to seek immigrant religious worker classification for the Beneficiary. On appeal, the Petitioner submits a new IRS determination letter and explains the delay in submitting this evidence.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will sustain the appeal.

I. LAW

Foreign nationals who perform full-time, compensated religious work as ministers, in religious vocations, or in religious occupations for non-profit religious organizations in the United States may be classified as special immigrant religious workers. The petitioner must establish that the foreign national beneficiary meets certain eligibility criteria, including membership in a religious denomination and continuous religious work experience for at least the two-year period before the petition filing date. *See generally* section 203(b)(4) of the Act (providing classification to qualified special immigrant religious workers as described in Section 101(a)(27)(C)(ii) of the Act).

The regulation states that a beneficiary must be “coming to work for a bona fide non-profit religious organization in the United States, or a bona fide organization which is affiliated with the religious denomination in the United States.” 8 C.F.R. § 204.5(m)(3). In addition, the regulation defines “bona

bona fide non-profit religious organization” as a religious organization in the United States exempt from taxation as described in section 501(c)(3) of the Internal Revenue Code of 1986 and possessing a currently valid determination letter from the IRS confirming such exemption. 8 C.F.R. § 204.5(m)(5).

Moreover, 8 C.F.R. § 204.5(m)(8) specifies evidence a petitioner must offer relating to the petitioning organization, stating, in pertinent part:

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.

II. ANALYSIS

The petition filed on November 6, 2019, contained a 501(c)(3) determination letter from the IRS dated March 27, 2001. The 2001 IRS letter indicates that Petitioner was granted tax exemption determination in 1985 and that the letter is still in effect. The Director issued a request for evidence (RFE) on August 23, 2021, seeking among other things, a currently valid tax-exempt documentation after USCIS’ routine check through IRS database (<http://apps.irs.gov/app/eos>) failed to confirm validity of the Petitioner’s IRS determination letter.

In response to the RFE, the Petitioner submitted a letter outlining its good faith efforts to obtain a current determination letter from the IRS and requested extension of the RFE due date. The Petitioner explained that the IRS was operating under longer processing times due to the pandemic and presented the IRS’s

publicly posted announcement regarding the processing delay. The Petitioner also included a printout of the IRS website page clarifying how churches that meet the requirements of section 501(c)(3) of the Internal Revenue Code are automatically considered tax exempt and are not required to file annual returns or notices from the IRS. The Director, without granting additional time to the Petitioner, denied the petition on April 1, 2022.

On appeal, the Petitioner submits two verification letters from the IRS (dated May 9, 2022, and May 18, 2022) showing that it is currently tax-exempt under section 501(c)(3) of the Internal Revenue Code. The Petitioner also reports that the IRS database has updated its search tool to list the petitioning organization. Based on the new evidence on appeal, we conclude that the Petitioner has established that it meets the definition of a bona fide non-profit religious organization under 8 C.F.R. § 204.5(m)(5) and satisfied the evidentiary requirements of 8 C.F.R. § 204.5(m)(8)(ii).

The Director does not identify any other grounds of ineligibility in the decision, and our review of the record finds that the Petitioner has established eligibility by a preponderance of the evidence.

III. CONCLUSION

As the Petitioner has submitted evidence which overcomes the sole ground for denial stated in the Director's decision, and upon review the Petitioner has met all other eligibility requirements for the requested classification, the appeal will be sustained.

ORDER: The appeal is sustained.