



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

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

In Re: 7880579

Date: JULY 6, 2020

Appeal of California Service Center Decision

Form I-129, Petition for Nonimmigrant Worker (Religious Worker – R-1)

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

The Director of the California Service Center denied the petition, concluding that the Petitioner did not submit a currently valid determination letter from the Internal Revenue Service (IRS) showing that it is a tax-exempt organization, as required under 8 C.F.R. § 214.2(r)(9). On appeal, the Petitioner now submits a valid determination letter from the IRS.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

I. LAW

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 religious occupations. The petitioning organization must establish, among other requirements, that the foreign national beneficiary has been a member of a 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 C.F.R. § 214.2(r).

In addition, the Petitioner must establish that it either qualifies as a bona fide non-profit religious organization or as a bona fide organization which is affiliated with the religious denomination. 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 it belongs to, is exempt from taxation in accordance with sections 501(c)(3) of the Internal Revenue Code of 1986, or subsequent amendments or equivalent sections of prior enactments of the Internal Revenue Code.

Also, 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...

II. ANALYSIS

In her decision, the Director found that although the Petitioner had submitted a letter from the IRS acknowledging receipt of its application for tax-exempt status, it did not submit a final determination letter, as required. On appeal, the Petitioner now submits a determination letter from the IRS, dated May 13, 2019, which confirms that it is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code. However, per 8 C.F.R. § 103.2(b)(1), a petitioner must establish that it is eligible for the requested benefit at the time of filing the benefit request. Since the Petitioner has not shown that it possessed a currently valid determination letter from the IRS on the date on which it filed the petition, it has not established that it qualified as either a "tax-exempt organization" or a "[b]ona fide non-profit religious organization" under 8 C.F.R. § 214.2(r)(3). As such, it has demonstrated that at the time of filing the petition, it qualified to seek R-1 nonimmigrant religious worker classification for the Beneficiary.

III. CONCLUSION

The Petitioner has not established, by a preponderance of the evidence, its eligibility to seek classification for the Beneficiary as an R-1 nonimmigrant religious worker, as it did not possess a currently valid IRS determination letter at the time it filed the petition.

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

ORDER: The appeal is dismissed.