



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

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

In Re: 20614875

Date: JUN. 01, 2022

Appeal of California Service Center Decision

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

The Petitioner, a religious women's congregation, seeks to extend the Beneficiary's classification as a nonimmigrant religious worker to perform services as a nun. *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 denied the petition, concluding that the record did not establish that the Petitioner is a tax-exempt organization, recognized as tax-exempt under a group tax-exemption, or is affiliated with a religious denomination that is tax-exempt.

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 sustain 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).

The regulation at 8 C.F.R. § 214.2(r)(1) provides 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, an individual 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. 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 IRS [Internal Revenue Service] 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, in pertinent part:

*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 . . . .

## II. ANALYSIS

The Petitioner seeks to continue to employ the Beneficiary in a religious vocation, in which she will teach catechism and conduct prayer meetings in addition to other duties. In his decision, the Director declined to defer to the approval of the previous petition filed by the Petitioner on behalf of the Beneficiary, noting that the website of the U.S. Internal Revenue Service (IRS) did not indicate that the Petitioner is tax-exempt under section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. 501(c)(3). He concluded that the record did not include evidence a tax-exempt determination letter from the IRS for the Petitioner, or evidence which confirmed its membership in a group exemption, as required per 8 C.F.R. § 214.2(r)(9). Accordingly, the Director denied the petition on that ground alone.

On appeal, the Petitioner submits a letter from the IRS dated September 1, 2021, which states that the United States Conference of Catholic Bishops was issued a Group Exemption Number in March 1946 and confirms that the subordinate organizations listed in the *Official Catholic Directory for 2021* are tax-exempt under this number. The letter also states that those subordinate organizations do not receive individual determination letters and are not listed in the Tax Exempt Organization Search. In addition, the Petitioner included a page from the directory which lists the Petitioner on page 195 under [REDACTED] Upon review, this evidence establishes that the Petitioner is tax-exempt under a group exemption, and thus meets the requirements of 8 C.F.R. § 214.2(r)(9).

## 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.