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# R Visa Overview

## R Visa Overview <sup>[1]</sup>

Submitted by Guest on Feb 1st 2009

The R-1 Visa is available to those who wish to come to the United States solely as a minister or to perform a religious vocation or occupation, in either a professional or nonprofessional capacity, for a period not to exceed five (5) years.

In order to be approved for temporary admission, or extension and maintenance of status, one must meet the following requirements:

- You must 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 application for admission;
- You must be coming to the United States to work at least in a part time position (average of at least 20 hrs/week);
- You must be coming to, or remaining in, the United States at the request of the petitioner to work for the petitioner;

The R-Visa also makes provision for the spouse and/or child (ren) of the main applicant to enter the United States as a nonimmigrant. R-2 dependent status is available to spouses and minor children (under the age of 21) and can be applied for in the same petition as the primary visa holder.

## Definitions

**Religious vocation** means a formal lifetime commitment, through vows, investitures, ceremonies, or similar indicia, to a religious way of life. The religious denomination must have a class of individuals whose lives are dedicated to religious practices and functions, as distinguished from the secular members of the religion. (Examples of vocations include nuns, monks, and religious brothers and sisters.)

**Minister** is defined as an individual who:

- Is fully authorized by a religious denomination, and fully trained according to the denomination's standards, to conduct religious worship and perform other duties usually performed by authorized members of the clergy of that denomination;

- Is not a lay preacher or a person not authorized to perform duties usually performed by clergy;
- Performs activities with a rational relationship to the religious calling of the minister; and,
- Works solely as a minister in the United States, which may include administrative duties incidental to the duties of a minister.

**Religious denomination** means a religious group or community of believers that is governed or administered under a common type of ecclesiastical government and includes one or more of the following:

- A recognized common creed or statement of faith shared among the denomination's members;
- A common form of worship;
- A common formal code of doctrine and discipline;
- Common religious services and ceremonies;
- Common established places of religious worship or religious congregations; or
- Comparable indicia of a bona fide religious denomination.

**Religious occupation** means an occupation that meets all of the following requirements:

- The duties must primarily relate to a traditional religious function and be recognized as a religious occupation within the denomination;
- The duties must be primarily related to, and must clearly involve, inculcating or carrying out the religious creed and beliefs of the denomination;
- The duties do not include positions which are primarily administrative or support such as janitors, maintenance workers, clerical employees, fund raisers, persons solely involved in the solicitation of donations, or similar positions, although limited administrative duties that are only incidental to religious functions are permissible; and
- Religious study or training for religious work does not constitute a religious occupation, but a religious worker may pursue study or training incident to status.

## Duration of Stay

USCIS is amending the standard initial period of stay for nonimmigrant religious workers from three years to up to 30 months. The period of stay granted is always based on the petitioner's need for the alien's services. The revision gives the agency the opportunity to review, at an earlier time, whether the terms of the R-1 visa have been met. (Requests for one potential extension of an additional 30 months will be considered.)

An alien who has spent five (5) years in the United States in R-1 status may not be readmitted to or receive an extension of stay in the United States under the R visa classification, unless the alien has resided abroad and has been physically present outside the United States for the immediate prior year. The limitations in this paragraph shall not apply to R-1 aliens who did not reside continually in the United States and whose employment in the United States was seasonal or intermittent, or was for an aggregate of six (6) months or less per year. In addition, the limitations shall not apply to aliens who reside abroad and regularly commute to the United States to engage in part-time employment.

To qualify for this exception, the petitioner and the alien must provide clear and convincing proof that the alien qualifies for such an exception. Such proof shall consist of evidence such

as arrival and departure records, transcripts of processed income tax returns, and records of employment abroad.

Please Note: R-Visa applicants shall maintain an intention to depart the United States upon the expiration or termination of their status. However, a nonimmigrant petition, application for initial admission, change of status or extension of stay in R classification may not be denied solely on the basis of a filed or an approved request for permanent labor certification or a filed or approved immigrant visa petition.

## **Extension of Stay or Readmission**

An R-1 alien who is maintaining status or is seeking readmission may be granted an extension of R-1 stay or readmission in R-1 status for the validity period of the petition, up to 30 months, provided the total period of time spent in R-1 status does not exceed a maximum of five (5) years.

## **Initial Application and Petitioner's Attestation**

A Form I-129 (Petition for a Nonimmigrant Worker) to request an initial admission or extension of R-1 status must be filed by the employer with a supplement containing the required attestations, the proper filing fee(s) and the supporting evidence in accordance with the form instructions.

An authorized official of the prospective employer of an R-1 alien must complete, sign and date an attestation and submit it along with the petition. The prospective employer must attest to all of the following:

- That the prospective employer is a bona fide non-profit religious organization or a bona fide organization, which is affiliated with the religious denomination and is exempt from taxation. This can be shown through a currently valid determination letter from the IRS showing that the organization is a tax-exempt organization; or
- 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
- 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), or subsequent amendment or equivalent sections of prior enactments, of the Internal Revenue Code, as something other than a religious organization:

§ A currently valid determination letter from the IRS establishing that the organization is a tax-exempt organization;

§ 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;

§ 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

§ A religious denomination certification. The religious organization must complete, sign and date a statement certifying that the petitioning organization is affiliated with the

religious denomination. The petitioner must submit the statement along with the petition.

- That the alien has been a member of the denomination for at least two years and that the alien is otherwise qualified for the position offered;
- The number of members of the prospective employer's organization;
- The number of employees who work at the same location where the beneficiary will be employed and a summary of the type of responsibilities of those employees. (Please Note: USCIS may request a list of all employees, their titles, and a brief description of their duties at its discretion);
- The number of aliens holding special immigrant or nonimmigrant religious worker status currently employed or employed within the past five years by the prospective employer's organization;
- The number of special immigrant religious worker and nonimmigrant religious worker petitions and applications filed by or on behalf of any aliens for employment by the prospective employer in the past five years;
- The title of the position offered to the alien and a detailed description of the alien's proposed daily duties;
- Whether the alien will receive salaried or non-salaried compensation and the details of such compensation;
- That the alien will be employed at least 20 hours per week;
- The specific location(s) of the proposed employment; and
- That the alien will not be engaged in secular employment.

## **Evidence Relating to the Qualifications of a Minister**

If the alien is a minister, the petitioner must submit the following:

- A copy of the alien's certificate of ordination, or similar documents reflecting acceptance of the alien's qualifications as a minister in the religious denomination; and,
- Documents reflecting acceptance of the alien's qualifications as a minister in the religious denomination, as well as evidence that the alien has completed any course of prescribed theological education at an accredited theological institution normally required or recognized by that religious denomination; including transcripts, curriculum, and documentation that establishes that the theological education is accredited by the denomination, or
- For denominations that do not require a prescribed theological education, evidence of:
  - § The denomination's requirements for ordination to minister;
  - § The duties allowed to be performed by virtue of ordination;
  - § The denomination's levels of ordination, if any; and
  - § The alien's completion of the denomination's requirements for ordination.

## **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:

- 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. IRS documentation, such as IRS Form W-2 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.

- Self support.

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.

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

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

The petitioner must submit evidence demonstrating:

- That the organization has an established program for temporary, uncompensated missionary work;
- That the denomination maintains missionary programs both in the United States and abroad;
- The religious worker's acceptance into the missionary program;
- The religious duties and responsibilities associated with the traditionally uncompensated missionary work; and

## **Evidence of Previous R-1 Employment**

Any request for an extension of stay as an R-1 must include initial evidence of the previous R-1 employment. If the beneficiary:

- Received salaried compensation, the petitioner must submit IRS documentation that the alien received a salary, such as an IRS Form W-2 or certified copies of filed income tax returns, reflecting such work and compensation for the preceding two years.
- Received non-salaried compensation, the petitioner must submit IRS documentation of the non-salaried compensation if available. If IRS documentation is unavailable, an explanation for the absence of IRS documentation must be provided, and the petitioner must provide verifiable evidence of all financial support, including stipends, room and

board, or other support for the beneficiary by submitting a description of the location where the beneficiary lived, a lease to establish where the beneficiary lived, or other evidence acceptable to USCIS.

- Received no salary but provided for his or her own support, and that of any dependents, the petitioner must show how support was maintained by submitting with the petition verifiable documents such as audited financial statements, financial institution records, brokerage account statements, trust documents signed by an attorney, or other evidence acceptable to USCIS.

## Recapturing Time Spent Outside the U.S.

The recapturing of time spent outside of the United States when calculating the maximum period of authorized stay has been extended by USCIS to the R-1 nonimmigrant classification.

### Nonimmigrant Visas:

R Visa <sup>[2]</sup>

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