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EB-4 Religious Workers

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Eligibility and Filing

To qualify as an EB-4 special immigrant religious worker, you must be a member of a religious denomination that has a non-profit religious organization in the United States. You must have been a member of this religious denomination for at minimum two years before applying for admission to the United States. Furthermore, you must be entering the United States to work:

- As a minister or priest of the religious denomination;
- In a religious vocation or occupation either in a professional or nonprofessional capacity for the religious organization (a professional capacity means that a U.S. baccalaureate degree or foreign equivalent is required to do this job); or
- In a religious vocation or occupation for the religious organization or its nonprofit affiliate. (A religious *vocation* means a calling or devotion to religious life. Taking vows can prove that you have a calling to religious life. A religious *occupation* is an activity devoted to traditional religious functions. Examples of religious occupations include (but are not limited to) cantors, missionaries, and religious instructors.)

You must have been performing the applicable religious work for the past two years. For more specific eligibility information, please see 8 CFR § 204.5.

There are definitions that apply specifically to Special Immigrant Religious Worker petitions. Detailed explanations of the definitions may be found at 8 CFR 204.5(m). Some of the definitions are:

1. **Bona Fide Nonprofit Religious Organization in the United States** means a religious organization exempt from taxation as described in section 501 © (3) of the Internal Revenue Code of 1986, subsequent amendment, or equivalent sections of prior enactments of the Internal Revenue Code. The organization must have a currently valid

determination letter from the Internal Revenue Service confirming the tax exemption.

2. **Bona Fide Organization That Is Affiliated with the Religious Denomination** means an organization that is closely associated with a religious denomination. The affiliated organization must be exempt from taxation as described in section 501 ©(3) of the Internal Revenue Code of 1986, subsequent amendment, or equivalent sections of prior enactments of the Internal Revenue Code. The organization must have a currently valid determination letter from the Internal Revenue Service confirming the tax exemption.
3. **Religious Denomination** means a religious group or community of believers that is governed or administered under a common type of ecclesiastical government with: (a) a recognized common creed or statement of faith shared among the denomination?s members; (b) a common form of worship; (c) a common formal code of doctrine and discipline; (d) common religious service, and ceremonies; (e) common established places of religious worship, religious congregations; or (f) comparable evidence of a bona fide religious denomination.
If there is no hierarchical ecclesiastical government, an individual church may qualify as a religious denomination by submitting a description of its internal governing structure.
4. **Denominational Membership** means membership during at least the two-year period immediately preceding the filing date of the petition, in the same type of religious denomination as the United States religious organization where the alien will work.
5. **Minister** means an individual who: (a) 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; (b) is not a lay preacher or a person not authorized to perform duties usually performed by clergy; (c) performs activities with a rational relationship to the religious calling of the minister; and (d) works solely as a minister in the United States, which may include administrative duties incidental to the duties of a minister.
6. **Religious Occupation** means an occupation which meets all of the following requirements: (a) the duties must primarily relate to a traditional religious function and be recognized as a religious occupation within the denomination; (b) the duties must be primarily related to, and must clearly involve, including or carrying out the religious creed and beliefs of the denomination; (c) the duties does 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 (d) 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.
7. **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 religious vocations include nuns, monks, and religious brothers and sisters.
8. **Religious Worker** means an individual engaged in and according to the denomination?s standards, qualified for a religious occupation or vocation, whether or not in a professional capacity, or as a minister.
9. **Tax Exempt Organization** means an organization exempt from taxation under section 501 ©(3) of the Internal Revenue Code of 1986, subsequent amendment, or equivalent sections of prior enactments of the Internal Revenue Code. The organization must demonstrate tax-exempt status by submitting a currently valid determination letter from

the IRS. A determination letter may be currently valid regardless of whether it is issued under 501 ©(3) of the Internal Revenue Code of 1986, subsequent amendment, or equivalent sections of prior enactments of the Internal Revenue Code. These requirements also apply to religious organizations that are recognized as tax exempt under a group tax exemption. In instances where the organization is affiliated with the religious denomination and was granted tax exempt status under section 501©(3) of the Internal Revenue Code of 1986, subsequent amendment, or equivalent sections of prior enactments of the Internal Revenue Code, as something other than a religious organization, additional documentation is required.

Application Procedure

You or your employer must submit USCIS Form I-360 (Petition for Amerasian, Widow(er), or Special immigrant).

If you live in Alaska, Arizona, California, Colorado, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oregon, South Dakota, Utah, Washington, Wisconsin, Wyoming, Guam, or the Commonwealth of Northern Mariana Islands, file your application at USCIS Phoenix Lockbox

For U.S. Postal Service (USPS) deliveries: USCIS; PO Box 21281; Phoenix, AZ 85036

For Express mail and courier service deliveries: USCIS; Attn: AOS; 1820 E. Skyharbor Circle S Suite 100; Phoenix, AZ 85034

If you live in Alabama, Arkansas, Connecticut, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Oklahoma, Tennessee, Texas, Vermont, Virginia, U.S. Virgin Islands, or West Virginia, file your application at USCIS Dallas Lockbox

For U.S. Postal Service (USPS) deliveries: USCIS; PO Box 660867; Dallas, TX 75266

For Express mail and courier service deliveries: USCIS; Attn: AOS; 2501 S. State Hwy. 121, Business Suite 400; Lewisville, TX 75067

The Labor Certification obtained through PERM for other immigration classifications is not required under the EB-4 category. However, you must also submit:

- Proof that the religious organization qualifies as a non-profit organization.
- A letter from an official of the religious organization in the United States:
 - The letter should establish that you have been a member of the denomination for two years, and that you have at least two years of experience in your religious vocation or occupation.
 - If you are a minister, the letter should establish that you have been authorized to perform religious duties in general and should specify which duties you are authorized to perform.
 - If you are a religious professional, the letter should establish that you have a United States baccalaureate degree or the foreign equivalent that is required for your religious profession. You must also submit an official academic record.
- If you are applying to work in the United States in another religious vocation or

occupation, the letter should establish that you are qualified to work in that religious vocation or occupation. For instance, if you were applying to work as a nun or a monk, you would need to provide evidence that you are a nun or a monk.

- If you are applying to work in the United States in a non-ministerial or non-professional capacity for a religious organization affiliated with a religious denomination, the letter should establish how the religious organization is affiliated with the denomination.
- The letter should also detail how you will be carrying on the work of a minister, or how you will be paid if you are working in a professional or other religious capacity. The letter should indicate that you would not be dependent upon supplementary income (from a second job) or charity (funds solicited for your support).

A religious worker must be salaried and/or non-salaried. Salaried means receiving a traditional paycheck. Non-salaried means receiving support such as a room, board, medical care, or transportation instead of a paycheck.

Special Updates

There is a sunset date for special immigrant non-minister religious workers, i.e. the final date by which special immigrant non-minister religious workers must immigrate or adjust status to permanent resident. On October 28, 2009, President Obama signed Public Law 111-83 extending the non-minister special immigrant religious worker program through September 29, 2012. The extended category covers special immigrant religious workers within a religious vocation or occupation engaged in either a professional or non-professional capacity. The extended date also applies to accompanying spouses and children of these non-minister special immigrant religious workers. Special Immigrants entering the United States solely for the purpose of carrying on the vocation of a minister, and their accompanying spouses and children are not affected by this sunset date.

Attestation Requirements

In addition to completing other details in Form I-360, the prospective employer must complete an Employer Attestation and complete a Religious Denomination Certification. Prospective employer means the U.S. employer that will be employing the alien. If the alien is a self-petitioner and also an authorized official of the prospective employer, the self-petitioner may sign the attestation. An authorized official of the prospective employer must complete, sign, and date the Employer Attestation and complete the Denomination Certification. The authorizing official must sign the attestation, certifying under penalty of perjury that the attestation is true and correct. On the Employer Attestation form, the prospective employer must specifically attest to the following:

1. The prospective employer's status as a: (a) bona fide nonprofit organization; or (b) bona fide organization that is affiliated with a religious denomination and is exempt from taxation.
2. The number of members of the prospective employer's organization.
3. The number of employees who work at the same location where the alien will be employed and a summary of those employee's responsibilities.
4. Number of aliens holding special immigrant or nonimmigrant religious worker status currently employed or employed within the past five years.
5. Number of Special Immigrant Religious Worker Form I-360 and Non Immigrant Religious Worker Form I-129 petitions submitted by the prospective employer within the

past five years.

6. The title of position offered to the alien.
7. The complete package of salaried or non-salaried compensation being offered.
8. A detailed description of the alien's proposed daily duties.
9. The position being offered to the alien requires at least 35 hours per week of compensated service.
10. The specific location(s) of the proposed employment.
11. The alien is qualified to perform the duties of the offered position.
12. The alien's membership in the prospective employer's denomination for at least two years prior to admission to the United States.
13. That, if the position is not a religious vocation, the alien will not be engaged in secular employment, and any compensation for religious work will be paid to the alien by the attesting employer.
14. The prospective employer's ability and intention to compensate and otherwise support (through housing, for example) the alien at a level at which the alien and accompanying family members will not become public charges.

Initial Evidence Relating to the Prospective Employer

The petitioner must submit the following initial evidence relating to the prospective employer:

1. A currently valid determination letter from the Internal Revenue Service establishing status as a tax exempt organization;
2. 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;
3. Organizational literature, such as brochures, calendars, flyers, and other literature describing the religious purpose and nature of the activities of the organization; and
4. A completed Religious Documentation Certification signed and dated by an authorizing official, certifying under penalty of perjury that the certification is true and correct.

Initial Evidence Related to Compensation

The prospective U.S. employer must submit verifiable evidence of how the petitioner intends to compensate the alien. The evidence may include:

1. Past evidence of compensation for similar positions; budgets showing monies set aside for salaries, leases, etc.; documentation that food, housing, medical care, or transportation will be provided; or other similar evidence.
2. If Internal Revenue Service (IRS) documentation, such as IRS Form W-2 or certified tax returns, is available it must be provided. If IRS documentation is unavailable, the prospective employer must explain why it is unavailable and submit comparable verifiable documentation.
3. Specific evidence must be provided if the alien worked in the United States during the two years immediately before the petition was filed. If the alien: (a) received salaried compensation, the prospective employer must submit IRS documentation that the alien received a salary, such as an IRS Form W-2 or certified copies of income tax returns, (b) received non-salaried compensation, the prospective employer must submit IRS documentation of the non-salaried compensation if available, and (c) received no salary but provided for his or her own support and for any dependents, the prospective employer must show how support was maintained by submitting documents such as

audited financial statements, financial institution records, brokerage account statements, trust documents signed by an attorney, or other verifiable evidence acceptable to USCIS.

Initial Evidence Related to the Alien's Prior Employment

1. Evidence relating to the alien's prior employment can be shown by the qualifying prior experience during the two years immediately preceding the petition or preceding any acceptable break in the continuity of the religious work. The work must have occurred after the age of 14, and if acquired in the United States, must have been authorized under United States immigration law. If the alien was employed in the United States during the two years immediately preceding the filing of the application and (a) received salary compensation, the petitioner must submit IRS documentation that the alien received a salary, such as an IRS Form W-2 or certified copies of income tax returns; (b) received non-salaried compensation, the petitioner must submit IRS documentation of the non-salaried compensation if available; (c) received no salary but provided by his or her own support, and provided support for any dependents, the petitioner must show how support was maintained by submitting with the petition additional documents such as audited financial statements, financial institution records, brokerage account statements, trust documents signed by an attorney, or other verifiable evidence acceptable to USCIS.
2. If the alien was employed outside the United States during such two years, the petitioner must submit comparable evidence of the religious work.
3. The prior religious work need not correspond precisely to that type of work to be performed.
4. A break in the continuity of the work during the preceding two years will not affect eligibility so long as: (a) the alien was still employed as a religious worker; (b) the break did not exceed two years; and (c) the nature of the break was for further religious training or for sabbatical that did not involve unauthorized work in the United States. However, the alien must have been a member of the petitioner's denomination throughout the two years of qualifying employment.

Initial Evidence related to a Minister

If filing on behalf of a minister, the petitioner must submit the following additional initial evidence:

1. A copy of alien's certificate of ordination or similar documents reflecting acceptance of the alien's qualifications as a minister in the religious denomination; and
2. Documents reflecting (a) acceptance of the alien's qualifications as a minister in the religious denomination; (b) the alien's completion of 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 institution is accredited by the denomination.
3. For denominations that do not require a prescribed theological education, evidence of: (a) the denomination's requirements for ordination to minister; (b) the duties allowed to be performed by virtue of ordination; (c) the denomination's levels of ordination, if any; and (d) the alien's completion of the denomination's requirements for ordination.

Verification of Evidence

USCIS may verify the submitted evidence through any means that USCIS determines as appropriate, up to and including an on-site inspection. If USCIS decides to conduct a pre-approval inspection, satisfactory completion of such inspection will be a condition for approval of any petition. The inspection may include:

1. A tour of the organization?s facilities and, if appropriate, the organization?s headquarters, or satellite location;
2. An interview with the organization?s officials;
3. A review of the organization?s records related to compliance with immigration laws and regulations; or
4. A visit to the locations where the alien will work or live.

Green Card:

EB4 Green Card ^[2]

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