

IV. EB-4 FOURTH PREFERENCE- RELIGIOUS WORKER

The EB-4 Status is available to ministers and others in religious occupation and religious vocation. To qualify as a minister, the individual must be authorized by a recognized denomination to conduct religious worship and perform other duties usually performed by members of the clergy. A lay preacher does not qualify as a minister. Religious occupation means a habitual engagement in an activity which relates to a traditional religious function. Examples include liturgical workers, religious instructors or religious counselors. Religious vocation means a calling to religious life, shown by a demonstration of a lifelong commitments, such as taking of vows. Examples include nuns, monks, and religious brothers and sisters. In order to qualify, the religious worker must have been a member of this religious denomination for at least two years prior to applying for admission to the United States. Furthermore, the petitioning church must have received 501(c)(3) nonprofit status from the IRS. Spouses and children below 21 years of age are qualified to obtain green cards if accompanying the main beneficiary.

To qualify the foreign national must: (a) seek to enter the United States to work in a full time (average of at least 35 hours per week) compensated position for a bona fide nonprofit religious organization in the U.S; (b) be a minister of a religious denomination; (c) be in a religious vocation either in a professional or nonprofessional capacity; (d) be in a religious occupation either in a professional or nonprofessional capacity; (e) have been a member of a religious denomination that has a bona fide nonprofit religious organization in the United States for at least two years immediately preceding the filing of a petition for this status with the U.S. Citizenship and Immigration Service (“USCIS”); (f) have been working in one of the positions described above, either abroad or in lawful immigration status in the United States, and after the age of 14 years continuously for at least two years immediately preceding the filing of a petition with USCIS.

There are certain general requirements which must be satisfied by the religious worker as well as by the employing nonprofit religious organization. These requirements are as follows:

SUPPORTING DOCUMENTS REQUIRED FOR THE RELIGIOUS ORGANIZATION

Proof of tax-exempt status—(a) If the religious organization has its own individual IRS 501(c)(3) letter, provide a currently valid determination letter from the IRS establishing that the organization is a tax-exempt organization; (b) If the organization is recognized as tax-exempt under a group tax-exemption, provide a currently valid IRS group tax-exemption determination letter; (c) If the organization is affiliated with the religious denomination, provide a currently valid determination letter from the IRS that the organization is tax-exempt, documentation that establishes the religious nature and purpose of the organization, organizational literature, a religious denomination certification, part of the Form I-360

Proof of salaried or non-salaried compensation—(a) Verifiable evidence of how the organization intends to compensate the religious worker, including specific monetary or in-kind compensation. Evidence of compensation may include past evidence of compensation for similar positions, budgets showing monies set aside for salaries, leases, etc., evidence that room and board will be provided to the religious worker, if IRS documentation, such as IRS Form W-2 or certified

tax returns, is available, it must be provided, if IRS documentation is not available, an explanation for its absence must be provided, along with comparable, verifiable documentation

SUPPORTING DOCUMENTS REQUIRED FOR THE RELIGIOUS WORKER

Proof of membership—(a) Evidence that the religious worker is a member of a religious denomination having a bona fide non-profit religious organization in the United States for at least 2 years immediately preceding the filing of Form I-360; (b) Evidence to establish that the religious worker is qualified to perform the duties of the offered position.

If the religious worker will be working as a minister, provide a copy of the religious worker's certificate of ordination or similar documents and documents reflecting acceptance of the religious worker's qualification as a minister in the religious denomination, as well as evidence that the religious worker has completed any course of prescribed theological education at an accredited theological institution normally required or recognized by that religious denomination. Include transcripts, curriculum, and documentation that establishes that the theological institution is accredited by the denomination.

If the denominations do not require a prescribed theological education, provide the religious denomination's requirements for ordination to minister, a list of duties performed by virtue of ordination, the denomination's levels of ordination, if any, and evidence of the religious worker's completion of the denomination's requirements for ordination.

Proof of previous religious work (either abroad or in lawful immigration status in the United States)—If the requisite previous employment was in the U.S. **and** the religious worker received salaried compensation, provide documentation that he or she 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 prior employment.

The religious worker received non-salaried compensation – If IRS documentation is available, provide IRS documentation of the non-salaried compensation. If IRS documentation is not available, provide an explanation for the absence of IRS documentation along with comparable, verifiable documentation. If the religious worker received no salary but provided for his or her own support and that of any dependents, provide verifiable documents to show how support was maintained, such as audited financial statements, financial institution records, brokerage account statements, trust documents signed by an attorney, or other verifiable evidence acceptable to USCIS.

To find out more about the procedural steps involved and an estimate of fees, call or email us today for your free in-depth consultation!