

Immigration to the U.S. to Perform Religious Work



By Michael J. Wildes

If you are a religious worker with a job offer from a non-profit religious organization in the United States, you may be eligible for a temporary or permanent visa, which would allow you to obtain a working visa or Lawful Permanent Residence (a "Green Card") to live and work in the United States.

R-1 Temporary Nonimmigrant Visas

To qualify for an R-1 visa to live and work in the U.S. in a religious occupation for a temporary period of time, one must have a job offer from a non-profit religious organization in the U.S. or an organization that is affiliated with a religious denomination in the U.S. to work in a religious vocation or occupation. This encompasses a wide range of occupations, including (but not limited to) a Mashgiach/Kosher Supervisor, Judaic Studies Teacher, Judaic Scholar, Rosh Yeshiva, and Rebbetzin/Mikvah Manager. Many different types of religious workers can qualify for work on an R-1 visa.

The individual must also be able to show that s/he has been a member of the religious denomination involved for at least two years prior to the filing of the visa application and that the religious denomination has a bona fide non-profit religious organization in the United States.

The R-1 application process includes documenting that the religious organization meets the visa requirements of non-profit status in the U.S., the applicant's membership in the religious denomination, and a description of the religious nature of the role that the applicant will play in the religious organization.

U.S. Citizenship and Immigration Services (USCIS) may grant R-1 status for an initial period of up to 30 months. Extension may be granted for an additional period of up to 30 months. A religious worker on an R-1 visa can remain in the U.S. with approved extensions of his/her R-1 status for a maximum of five years.

Spouses and unmarried children under the age of 21 of an R-1 visa holder may accompany the religious worker in R-2 status, which allows these family members to accompany and live in the U.S., but does not allow their work authorization.

EB-4 Immigrant Visas

Some religious workers in full-time compensated positions may be eligible for Permanent Resident Status in the U.S. (also known as a "Green Card"), which allows qualifying individuals to live and work in the U.S. permanently, and provides the option of applying for naturalization after a period of time once Permanent Residence Status is granted.

The Employment-Based Fourth Preference (EB-4) Immigrant Visa category includes Special Immigrant Religious Work-

ers. There is a limit of 5,000 workers who may be issued a special immigrant non-minister religious worker visa during each fiscal year. There is no cap for special immigration religious workers entering the U.S. solely for the purpose of serving in the vocation of a minister.

Special Immigrant Religious workers (non-ministers) can include individuals within a religious vocation or occupation in a professional or non-professional capacity. Just as with the above-named occupations, these same individuals would likely qualify for an EB-4 immigrant visa, so long as they meet the other requirements. The individual must have been a member of a religious denomination that has a bona fide non-profit religious organization in the U.S. for at least two years immediately before the filing of a petition.

A different, additional requirement for the EB-4 immigrant petition is that the individual must be seeking to enter the U.S. to work in a full-time, compensated position that is a religious vocation or occupation in a professional or non-professional capacity. Full-time means an average of 35 hours per week. Compensated may mean salaried or unsalaried.

Furthermore, the individual must have been working in a religious occupation or vocation continuously for at least two years immediately before the filing of a petition with USCIS. The prior religious work does not need to be the same as the work seeking to be performed in the U.S.

A U.S. employer, or the worker on his/her own behalf, must file a specific form to request Special Immigrant Religious Worker classification. The religious organization must demonstrate that it has tax-exempt status. The individual applicant must provide proof of membership in the religious organization, and proof of previous religious work (either abroad or in valid status in the U.S.) for two years prior to filing of the petition.

Spouses and unmarried children under 21 of EB-4 applicants can be included and apply for Permanent Resident Status with their family member, to accompany him/her to the U.S. or join at a later time.

It is always best to consult with an expert immigration attorney to assist with preparation of these extensive and complex applications.

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