"Amazin' Grace": Pushing the Limits of Religious Workers

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The Petitioner

- *IRS 501(c)(3) Tax-Exempt Letter*
  - *Obtained from IRS by filing Form 1023*
  - *6-9 months*
  - *If IRS has issued tax-exempt letter, confirm address*

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The Petitioner, cont.

- *Types of Petitioners*
  - *Religious organizations with tax exempt letter*
  - *Religious organization with group determination exemption letter*
  - *Individual organization affiliated with religious denomination*

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The Petitioner, cont.

- *Compensation- Budget and Financials – Ability to Pay*
  - *Verifiable evidence of how the petitioner intends to compensate the alien (salaried and non-salaried compensation)*
  - *Past evidence of compensation for similar positions*
  - *Budgets showing monies set aside for salaries, leases, etc.*
  - *Documentation that room and board will be provided*

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The Petitioner, cont.

- *IRS Documents*
  - *Form 990*
    - *www.guidestar.org*
    - *Some organizations are exempt from 990 filing*
  - *W-2'S for similar or prior positions*

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The Petitioner, cont.

- *Multiple Organizations- Who Should Petition?*
  - *If hierarchical organization- controlling organization*
  - *Salary to be paid by hierarchical organization or by organization listed in IRS Group Determination Letter*

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The Petitioner, cont.

- *Multiple Locations*
  - *List all potential locations on Petition*
  - *Provide leases, invoices, photographs of multiple locations showing Nexis with Petitioning organization*

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The Petitioner, cont.

- *Denomination / Non-Denominational Churches*

Denomination: a religious group or community of believers that is governed or administered under a common type of ecclesiastical government

Non-Denominational: Established functional denomination by mutual recognition of congregation and leaders

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The Beneficiary

- *Definitions:*
  Minister, Religious Occupation & Vocation
- *Training and Education Limitations*
- *Differences between R-1 and EB-4*
- *Dealing with Compensation & Unpaid Positions (volunteers)*

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The Beneficiary, cont.

- *Self Support Work*
- *R-1 Missionary*
- *Documentation Requirements for R-1 Ext & EB-4*
- *Full versus Part Time*
  - *Continuous and acceptable interruptions*

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The Beneficiary

- *Employment Authorization for EB-4 Experience*
  - *Shia Association of Bay Area v. U.S., 2/1/12, AILA Doc. No. 12020849*
- *Multiple Rs, change of R-1 sponsor and no porting*
- *B-1 as a supplement to R-1*

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Procedural Considerations

- *Period of R-1 Admission: 5 yrs, physical presence, recapture*
  - *"Procedures for Calculating the Maximum Period of Stay for R-1 Nonimmigrants" AILA Doc. No. 12030966*
- *Premium Processing Option*
  - *USCIS Processing Times & R visa application*

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Procedural Considerations, cont.

- *Running out of R-1 time - options*
- *Site Visits*
  - *Extensive areas of inquiry*
  - *USCIS' use of VIBE for non-profits & religious organizations*
- *Non minister religious worker provision sunset 9/30/12 (NSC advises timely filings by early August)*

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Procedural Considerations

- *Concurrent Filing for EB-4 Unavailable - planning*

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Questions & Answers

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