

9 FAM 42.32(D) FOURTH PREFERENCE SPECIAL IMMIGRANTS

*(CT:VISA-1850; 07-27-2012)
(Office of Origin: CA/VO/L/R)*

9 FAM 42.32(D) RELATED STATUTORY PROVISIONS

(CT:VISA-1850; 07-27-2012)

See INA 101(a)(27)(C) and (D) (8 U.S.C. 1101(a)(27)(C) and (D)), INA 203 (b)(4) (8 U.S.C. 1153(b)(4)), INA 203(d) (8 U.S.C. 1153(d)), INA 204(a)(1)(e) (8 U.S.C. 1154(a)(1)(e)), Sec. 201 Public Law 103-416 as amended, Sec. 162(b)(1) Public Law 101-649 as amended, Sec. 152 Public Law 101-649, *Sec. 2 Public Law 110-391, Sec. 1 Public Law 111-9, Sec. 568 Public Law 111-83.*

INA 101(a)(27)(C) and (D)

(27) The term “special immigrant” means—

(C) an immigrant, and the immigrant’s spouse and children if accompanying or following to join the immigrant, who—

- (i) for at least 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States;
- (ii) seeks to enter the United States—
 - (I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,
 - (II) before *September 30, 2012*, in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or
 - (III) before *September 30, 2012*, in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986) at the request of the organization in a religious vocation or occupation; and
- (iii) has been carrying on such vocation, professional work, or other

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work continuously for at least the 2-year period described in clause (i);

- (D) an immigrant who is an employee, or an honorably retired former employee, of the United States Government abroad, or of the American Institute in Taiwan, and who has performed faithful service for a total of fifteen years, or more, and his accompanying spouse and children: Provided, That the principal officer of a Foreign Service establishment (or, in the case of the American Institute in Taiwan, the Director thereof), in his discretion, shall have recommended the granting of special immigrant status to such alien in exceptional circumstances and the Secretary of State approves such recommendation and finds that it is in the national interest to grant such status;

INA 203(b)(4)

b. Preference Allocation for Employment-Based Immigrants. - Aliens subject to the worldwide level specified in section 201(d) for employment-based immigrants in a fiscal year shall be allotted visas as follows:

- (4) Certain special immigrants. - Visas shall be made available, in a number not to exceed 7.1 percent of such worldwide level, to qualified special immigrants described in section 101(a)(27) (other than those described in subparagraph (A) or (B) thereof), of which not more than 5,000 may be made available in any fiscal year to special immigrants described in subclause (II) or (III) of section 101(a)(27)(C)(ii), and not more than 100 may be made available in any fiscal year to special immigrants, excluding spouses and children, who are described in section 101(a)(27)(M).

INA 203(d)

d. **Treatment of family members.** A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101 (b)(1) of this title shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a), (b), or (c) of this section, be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, the spouse or parent.

INA 204(a)(1)

(E) Any alien desiring to be classified under section 203(b)(1)(A), or any person on behalf of such an alien, may file a petition with the Attorney General for such classification.

9 FAM 42.32(D) RELATED REGULATORY PROVISIONS

(CT:VISA-972; 06-12-2008)

See 22 CFR 42.32(d).