

## 9 FAM 42.32(d)(1) FOURTH PREFERENCE SPECIAL IMMIGRANTS - RELIGIOUS WORKERS

*(CT: VISA-1392; 01-20-2010)*  
*(Office of Origin: CA/VO/L/R)*

### 9 FAM 42.32(d)(1) RELATED STATUTORY PROVISIONS

*(CT: VISA-1392; 01-20-2010)*

See INA 101(a)(27)(C) (8 U.S.C. 1101(a)(27)(C)), INA 203(b)(4) (8 U.S.C. 1153(b)(4)), INA 204(a)(1)(G)(i) (8 U.S.C. 1154(a)(1)(G)(i)), (Amended by section 162(b)(1)(E) of Public Law 101-649, Nov. 29, 1990.)

#### **INA 101(a)(27)(C)**

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

### **INA 203(b)(4)**

(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 204(a)(1)(G)(i)**

(i) Any alien (other than a special immigrant under section 101(a)(27)(D)) desiring to be classified under section 203(b)(4), 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)(1) RELATED REGULATORY PROVISIONS**

*(CT: VISA-1348; 10-21-2009)*

### **See 22 CFR 42.32(d)(1)**

Aliens subject to the worldwide level specified in section 201(d) for employment-based immigrants in a fiscal year shall be allotted visas as indicated below.

(d) Fourth preference--Special immigrants—

(1) Religious workers--

(i) Classification based on qualifications under INA 101(A)(27)(C). An alien shall be classifiable under INA 203(b)(4) as a special immigrant described in INA 101(a)(27)(C) if:

(A) The consular officer has received a petition approved by DHS to accord such classification, or an official notification of such approval; and

(B) The consular officer is satisfied from the evidence presented that the alien qualifies under that section; or

(C) The consular officer is satisfied the alien is the spouse or child of a religious worker so classified and is accompanying or following to join the principal alien.

(ii) Timeliness of application. An immigrant visa issued under INA 203(b)(4) to an alien described in INA 101(a)(27)(C), other than a minister of religion, who qualifies as a "religious worker" as defined in 8 CFR 204.5, shall bear the usual validity except that in no case shall it be valid later than September 30, 2003.