

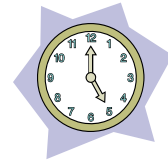
## RELIGIOUS IMMIGRATION QUARTERLY

Volume V

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*April showers bring May flowers; don't forget to move  
your clocks forward one hour.*



### **Don't Forget!!** **Change of Address Requirements**

All non-U.S. Citizens are required to inform USCIS about their change of addresses. The USCIS requires reporting any address change within 10 days. This is particularly important for those who have an application pending before the agency and expect notification of a decision. The law applies to non-immigrants, as well as immigrants.

#### **What to do**

Those non-U.S. citizens who change address must file Form AR-11 with the USCIS address listed on the form. The form can be downloaded from the website: [www.cis.gov](http://www.cis.gov). That address is the following:

**U.S. Department of Homeland Security  
USCIS**

**Change of Address**

**P.O. Box 7134**

**London, KY 40742- 7134**

For overnight commercial services, the address is the following:

**U.S. Department of Homeland Security  
USCIS**

**Change of Address**

**1084-1 South Laurel Road**

**London, KY 40744**

For those with pending applications additional steps are required to ensure that the applicants receive correspondence from the USCIS on their cases. Citizenship applicants must file Form AR-11 and telephone the National Customer Service Center to advise of the change of address. Applicants and petitioners for other benefits should file a Form AR-11 and **also** notify in writing the local office processing their case. It is advisable to send the Form AR-11 with a return receipt or other method that will document that the Form AR-11 was sent to USCIS.

A temporary change of address does not need to be reported to USCIS as long as the individual maintains the present address as a permanent residence and continues to receive mail there.

A willful failure to give written notice to the USCIS of a change of address within 10 days of the address change is a misdemeanor crime. If convicted, the individual can be fined up to \$200 or imprisoned up to 30 days. Regardless of whether the person is convicted, any non-citizen who failed to give written notice of a change of address is subject to custody and removal.

According to the USCIS, there are approximately 20 staff persons in London, Kentucky processing AR-11s within three days of receipt. There are no backlogs of AR-11s.

## **The Importance of Constantly Updating Information on Religious Workers**

We would like to remind all of you about the importance of keeping us, your immigration attorneys, informed of all the changes in address and employment of those individuals who are currently in the U.S. in non-immigrant status.

Recently one of our clients became the target of investigation by the Fraud Detection department of the DHS. One of the major factors that triggered the investigation was a failure on the part of the church sponsor, as well as the priest, to advise our office about the fact that the priest was temporarily assigned to serve at a different parish. This oversight caused us to provide incorrect information as part of an application for permanent residency, which was interpreted by the USCIS as an attempt to defraud the immigration authorities. As a result, our client is now facing the risk of having his application denied, in addition to a new financial burden imposed by legal expenses incurred in connection with the said investigation. In order to avoid such grave consequences, please notify your attorney immediately if there are any changes in your personal information, your address or employment location.

### **501(c)(3) Non-Profit Religious Organizations**

Dioceses, religious orders and other religious organizations that sponsor individuals applying for R-1 Religious Worker status are required to be “exempt from taxation as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986.” See INA § 101(a)(27)(C)(ii). This means that sponsoring organizations must either have applied for and been granted tax-exempt status by the Internal Revenue Service or been included in the *Official Catholic Directory* (OCD) and thus come under the IRS annual Group Ruling prior to signing Immigration petitions or sponsor letters.

#### **Tax-Exempt Determination from IRS**

To be granted tax-exempt status from the IRS requires more than just becoming a nonprofit corporation under the laws of your state and applying for an Employer Identification Number (EIN). An organization must file Form 1023/1024, Application for Recognition of Exemption with the local IRS office. Additional information can be obtained in the IRS’ Publication 557, Tax Exempt Status for Your Organization. These publications and forms are available at local IRS offices, or at [www.irs.gov](http://www.irs.gov).

Please be sure that you have a determination letter from the IRS indicating your status as a tax-exempt organization before attempting to sponsor an individual for R-1 status.

#### **Inclusion in the *Official Catholic Directory***

Catholic nonprofit organizations incorporated in the United States may also qualify for exemption from federal income taxes under 501(c)(3) by virtue of the IRS’s Group Ruling through inclusion in the *Official Catholic Directory* (OCD). In 1946, the Treasury Department affirmed the exemption from federal income tax of all Catholic Institutions listed in the *Official Catholic Directory* for that year. Each year since then, in a separate letter, the 1946 Group Ruling has been extended to cover institutions listed in the current OCD.

An application for inclusion can be obtained from the United States Conference of Catholic Bishops. It should be filled out as soon as possible after creation or incorporation, and sent to the Chancery office of the Diocese in which the organization’s principal office is located. Supporting documentation, such as the organization’s articles of incorporation, articles of association, trust instrument, constitution, bylaws, financial statements and EIN should also be submitted. The Diocese will then determine whether the organization qualifies for inclusion under the Group Ruling. An organization that receives written notification from the Diocese of its inclusion under the Group Ruling is recognized as exempt from federal income tax under section 501(c)(3) of the Code. Organizations should, however, consult their tax advisers regarding liability for federal excise taxes and state and local taxes.

Applicants that are denied inclusion in the Group Ruling by a Diocese may still file Form 1023/1024 directly with the IRS if they wish to establish independent exemption under 501(c)(3).

**Note**

Inclusion in one of the “summary sections” of the *Official Catholic Directory* (such as Religious Institutes of Men or Religious Institutes of Women) does not substitute for listing within the Diocese and is not, in itself, indication of federal tax exemption.

For additional information concerning tax-exemption and inclusion in the *Official Catholic Directory*, please contact the General Counsel’s office of the United States Conference of Catholic Bishops (USCCB). The General Counsel’s office can be reached by calling 202-541-3000, or on the web at [www.usccb.org/ogc/](http://www.usccb.org/ogc/).

**STUDENT OR RELIGIOUS WORKER?**

Some of you have asked why we recommend that some seminarians or novices seek F-1 nonimmigrant student visas and status, while we recommend that others seek R-1 nonimmigrant religious worker visas and status.

Before 1990, there was no “R-1 religious worker” nonimmigrant visa. If a person could not establish eligibility for admission into an educational institution or seminary recognized by the Attorney General for attendance by F-1 nonimmigrant students, there were few legal remedies to allow them to discern their religious vocations within the United States. F-1 students must establish that they: (1) have a “residence abroad which they have no intention of abandoning;” (2) have been accepted for full-time attendance at an educational institution; (3) possess the English-language skills required to attend the U.S. educational institution; and (4) have the funding to attend the educational institution without engaging in employment.

When the Immigration Act of 1990 became law, it gave us the “R-1 nonimmigrant religious worker” visa and status. This allowed individuals to come temporarily to the United States to take a position offered by a religious organization in the United States working in a religious occupation or pursuing a religious vocation. The R-1 statute intentionally omitted the “residence abroad” requirement for the R-1 applicant. Seminarians and novices were also not required to come to the United States “solely to pursue a course of study.” Instead they could perform religious service with a diocese or religious congregation that would allow them and their religious superiors to discern the validity of their religious vocations. The R-1 would also allow for studies deemed necessary but incidental to the pursuit of their religious vocations. Furthermore, since some individuals were in a “position of work” for a religious organization in the United States, the individual could expect mutually agreed upon compensation.

When the U.S. Congress passed the R-1 religious worker provisions, it imposed a “five year limit” to R-1 status. Religious organizations were expected to determine during that five-year period whether the foreign-born individual was needed for “permanent” religious service in the United States. No one predicted the difficulties that would arise because of this “five year limit.” The statute and regulations require an individual to serve in the United States in R-1 status for five years. The individual is then expected to leave the U.S., be physically outside the United States for one full year, and then return to the United States in R-1 status for another aggregate period of five years. This was not an acceptable solution for most dioceses and religious congregations.

The Division of Religious Immigration Services of CLINIC attempts to assist Church sponsors of seminarians and novices with the least intrusive application of U.S. immigration laws and regulations. When sponsoring Church entities know that foreign-born seminarians and novices will need more than five years before a commitment to permanency (and the permanent resident – “green card” – process), *timely* consultation with and action by CLINIC/DRIS may enable seminarians, novices, and newly ordained and vowed members of congregations to avail themselves of the benefits of not just the R-1 religious worker

provisions but also of the F-1 student and even the H-1B temporary worker provisions of the Immigration and Nationality Act.

The key to success is consultation and the development of a long-range plan by the sponsoring Church entity for each individual seminarian and novice with assistance from its CLINIC/DRIS attorney or representative.

### **Staff News**

#### **Welcome**

The Division is very pleased to announce that Karen P. Wolff, Esq. joined its staff at the end of January 2005. Karen is a graduate of West Virginia University in Morgantown and of the Case Western Reserve University School of Law in Cleveland. She brings a wealth of experience to her position, having worked as a legislative aide in the Ohio House of Representatives and as an assistant prosecuting attorney in Montgomery County, Ohio before moving to Washington, DC with her husband. Welcome, Karen!

#### **Good News!**

We are pleased to share the news that Andrea and Steve Maaseide are the proud parents of a new son, Michael Erik. Michael was born on Wednesday, March 23, 2005. He weighed eight pounds, two ounces and is 20 inches long. All are doing well! We know you join us in extending heartfelt congratulations and prayers for much happiness to the Maaseides!

