

Appendix: Applicability of INA 212(a)(4) to Family-Based Adjustment of Status Applications

Applicability of INA 212(a)(4) to Family-Based Adjustment of Status Applications¹

Category	Subject to INA 212(a)(4) and must file Declaration of Self-Sufficiency (Form I-944)? *	INA 213A and Affidavit of Support Under Section 213A of the INA (Form I-864) -- Required or Exempt?
Spouses, children, and parents of U.S. citizens (immediate relatives) ²	Yes, per INA 212(a)(4)	Required, per INA 212(a)(4)(C)
Unmarried sons and daughters of U.S. citizens and their children (family-sponsored 1st preference) ³	Yes, per INA 212(a)(4)	Required, per INA 212(a)(4)(C)
Spouses, children, and unmarried sons and daughters of alien residents (family-sponsored 2nd preference) ⁴	Yes, per INA 212(a)(4)	Required, per INA 212(a)(4)(C)

¹ Applicants who filed a Form I-485 before December 19, 1997 are exempt from the Affidavit of Support requirement. See Section 531(b) of Div. C of Pub. L. 104-208, 110 Stat. 3009-546, 3009-675 (September 30, 1996). See [8 CFR 213a.2\(a\)\(2\)\(i\)](#) (adjustment applicants) and [8 CFR 213a.2\(a\)\(2\)\(ii\)\(B\)](#) (applicants for admission). Aliens who acquired citizenship under [INA 320](#) upon admission to the United States are exempt from submitting an affidavit of support. See [8 CFR 213a.2\(a\)\(2\)\(ii\)\(E\)](#). See Section 101 of the Child Citizenship Act, Pub. L. 106-395, 114 Stat. 1631, 1631 (October 30, 2000) (amending [INA 320](#)). In addition, the surviving spouses, children, and parents of a deceased member of the military who obtain citizenship posthumously are exempt from a public charge determination. See Section 1703(e) of the National Defense Authorization Act for Fiscal Year 2004, Pub. L. 108-136, 117 Stat. 1392, 1695 (November 24, 2003). An alien who meets the conditions of new [8 CFR 212.23\(a\)\(18\)](#), (19), (20), or (21) (for example, certain T nonimmigrants, U nonimmigrants, and VAWA self-petitioners) are exempt from the public charge inadmissibility ground and the affidavit of support requirement, and therefore do not need to file Form I-944 or Form I-864 regardless of what category the alien adjusts under.

² Including the following categories: IR-6 Spouses; IR-7 Children; CR-7 Children, conditional; IH-8 Children adopted abroad under the Hague Adoption Convention; IH-9 Children coming to the United States to be adopted under the Hague Adoption Convention; IR-8 Orphans adopted abroad; IR-9 Orphans coming to the United States to be adopted; IR-0 Parents of adult U.S. citizens. Children adopted abroad generally do not apply for adjustment of status.

³ Including the following categories: A-16 Unmarried Amerasian sons/daughters of U.S. citizens; F-16 Unmarried sons/daughters of U.S. citizens; A-17 Children of A-11 or A-16; F-17 Children of F-11 or F-16; B-17 Children of B-11 or B-16.

⁴ Including the following categories: F-26 Spouses of alien residents, subject to country limits; C-26 Spouses of alien residents, subject to country limits, conditional; FX-6 Spouses of alien residents, exempt from country limits; CX-6 Spouses of alien residents, exempt from country limits, conditional; F-27 Children of alien residents, subject to country limits; C-28 Children of -C-26, or C-27, subject to country limits, conditional; B-28 Children of, B-26, or B-27, subject to country limits; F-28 Children of F-26, or F-27, subject to country limits; C-20 Children of C-29, subject to country limits, conditional; B-20 Children of B-29, subject to country limits; F-20 Children of F-29, subject to country limits; C-27 Children of alien residents, subject to country limits, conditional; FX-7 Children of alien residents, exempt from country limits; CX-8 Children of CX-7, exempt from country limits, conditional; FX-8

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Married sons and daughters of U.S. citizens and their spouses and children (family-sponsored 3rd preference) ⁵	Yes, per INA 212(a)(4)	Required, per INA 212(a)(4)(C)
Brothers and sisters of U.S. citizens (at least 21 years of age) and their spouses and children (family-sponsored 4th preference) ⁶	Yes, per INA 212(a)(4)	Required, per INA 212(a)(4)(C)
Fiancés of U.S. citizens ⁷ (admitted as a K-1 or K2 nonimmigrant)	Yes, per INA 212(a)(4)	Required, per INA 212(a)(4)(C)
Amerasians based on preference category, born between December 31, 1950 and before October 22, 1982 ⁸	Yes, per INA 212(a)(4)	Exempt, per Amerasian Act, Pub. L. 97-359 (October 22, 1982)

Children of FX-7, or FX-8, exempt from country limits; CX-7 Children of alien residents, exempt from country limits, conditional; F-29 Unmarried sons/daughters of alien residents, subject to country limits; C-29 Unmarried children of alien residents, subject to country limits, conditional.

⁵ Including the following categories: A-36 Married Amerasian sons/daughters of U.S. citizens; F-36 Married sons/daughters of U.S. citizens; C-36 Married sons/daughters of U.S. citizens, conditional; A-37 Spouses of A-31 or A-36; F-37 Spouses of married sons/daughters of U.S. citizens; C-37 Spouses of married sons/daughters of U.S. citizens, conditional; B-37 Spouses of B-31 or B-36; A-38 Children of A-31 or A-36, subject to country limits; F-38 Children of married sons/daughters of U.S. citizens; C-38 Children of C-31 or C-36, subject to country limits, conditional; B-38 Children of B-31 or B-36, subject to country limits.

⁶ Includes the following categories: F-46 Brothers/sisters of U.S. citizens, adjustments; F-47 Spouses of brothers/sisters of U.S. citizens, adjustments; F-48 Children of brothers/sisters of U.S. citizens, adjustments.

⁷ Includes the following categories: CF-1 Spouses, entered as fiancé(e), adjustments conditional; IF-1 Spouses, entered as fiancé(e), adjustments.

⁸ Includes the following categories: Immediate Relative AR-6 Children, Amerasian, First Preference: A-16 Unmarried Amerasian sons/daughters of U.S. citizens; Third Preference A-36 Married Amerasian sons/daughters of U.S. citizens; See [INA 204\(f\)](#). Note that this program does not have a specific sunset date and technically applicants could apply but should have already applied.

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Amerasians, born in Vietnam between January 1, 1962 and January 1, 1976 Immediate Relative: AM-6, AR-6 Children Amerasians under Amerasian Homecoming Act, Pub. L. 100-202 (December 22, 1987) ⁹ - born between January 1, 1962 and January 1, 1976	No. (I-360 and adjustment) Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988, Pub. L. 100-202	Exempt, per Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988, Pub. L. 100-202
Spouses, widows or widowers of U.S. citizens (IW-6)	Yes, per INA 212(a)(4)	Exempt, per 8 CFR 204.2 and 71 FR 35732
Immediate relative VAWA applicants, including spouses and children ¹⁰	No, per INA 212(a)(4)(E) and INA 212(a)(4)(C)(i)	Exempt, per INA 212(a)(4)(E)
1st preference VAWA applicants, including B-16 Unmarried sons/daughters of U.S. citizens, self-petitioning B-17 Children of B-16	No, per INA 212(a)(4)(C)(i)	Exempt, per INA 212(a)(4)(C)(i)
2nd preference VAWA applicants, including spouses and children ¹¹	No, per INA 212(a)(4)(C)(i)	Exempt, per INA 212(a)(4)(C)(i)

⁹ Includes the following categories: AM-1 principal (born between 1/1/1962-1/1/1976); AM-2 Spouse, AM-3 child; AR-1 child of U.S. citizen born Cambodia, Korea, Laos, Thailand, Vietnam. Note that this program does not have a specific sunset date and technically applicants could apply but should have already applied.

¹⁰ Includes the following categories: IB-6 Spouses, self-petitioning; IB-7 Children, self-petitioning; IB-8 Children of IB-1 or IB-6; IB-0 Parents battered or abused, of U.S. citizens, self-petitioning.

¹¹ Includes the following categories: B-26 Spouses of alien residents, subject to country limits, self-petitioning; BX-6 Spouses of alien residents, exempt from country limits, self-petitioning; B-27 Children of alien residents, subject to country limits, self-petitioning; BX-7 Children of alien residents, exempt from country limits, self-petitioning; BX-8 Children of BX-6, or BX-7, exempt from country limits; B-29 Unmarried sons/daughters of alien residents, subject to country limits, self-petitioning.

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Third Preference VAWA Married son/daughters of U.S. citizen, including spouses and children ¹²	No, per INA 212(a)(4)(C)(i)	Exempt, per INA 212(a)(4)(C)(i)
* If an alien is found inadmissible based on the public charge ground, USCIS, at its discretion, may permit the alien to post a Public Charge Bond (Form I-945). 8 CFR 213.1, as amended in the final rule, describes the circumstances under which a public charge bond may be cancelled using a Request for Cancellation of Public Charge Bond (Form I-356)		

¹² Includes the following categories: Third Preference VAWA; B-36 Married sons/daughters of U.S. citizens, self-petitioning; B-37 Spouses of B-36, adjustments; B-38 Children of B-36, subject to country limits.