

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)	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)

¹Applicants who filed an Application to Register Permanent Residence or Adjust Status ([Form I-485](#)) before December 19, 1997 are exempt from the [Form I-864](#) 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 acquire citizenship under [INA 320](#) upon admission to the United States are exempt from submitting a Form I-864, and make a request for that exemption when filing their Form I-485. 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).

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 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.

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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)

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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Category	Subject to INA 212(a)(4)	INA 213A and Affidavit of Support Under Section 213A of the INA (Form I-864) -- Required or Exempt*?
<p>Amerasians, born in Vietnam between January 1, 1962 and January 1, 1976</p> <p>Immediate Relative: AM-6, AR-6 Children</p> <p>Amerasians under Amerasian Homecoming Act, Pub. L. 100-202 (December 22, 1987)⁹ - born between January 1, 1962 and January 1, 1976</p>	<p>No. (I-360 and adjustment) Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988, Pub. L. 100-202</p>	<p>Exempt, per Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988, Pub. L. 100-202</p>
<p>Spouses, widows or widowers of U.S. citizens (IW-6)</p>	<p>Yes, per INA 212(a)(4)</p>	<p>Exempt, per 8 CFR 204.2 and 71 FR 35732</p>
<p>Immediate relative VAWA applicants, including spouses and children¹⁰</p>	<p>No, per INA 212(a)(4)(E) and INA 212(a)(4)(C)(i)</p>	<p>Exempt, per INA 212(a)(4)(E)</p>
<p>1st preference VAWA applicants, including B-16 Unmarried sons/daughters of U.S. citizens, self-petitioning B-17 Children of B-16</p>	<p>No, per INA 212(a)(4)(C)(i)</p>	<p>Exempt, per INA 212(a)(4)(C)(i)</p>
<p>2nd preference VAWA applicants, including spouses and children¹¹</p>	<p>No, per INA 212(a)(4)(C)(i)</p>	<p>Exempt, per INA 212(a)(4)(C)(i)</p>

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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Category	Subject to INA 212(a)(4)	INA 213A and Affidavit of Support Under Section 213A of the INA (Form I-864) -- Required or Exempt*?
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)

* Some categories of adjustment of status applicants are exempt from the Form I-864 requirement and make a request for that exemption when filing their adjustment of status application to establish that a Form I-864 is not required. These categories include children of U.S. citizens who will automatically become U.S. citizens under the Child Citizenship Act of 2000 upon their admission to the United States, self-petitioning widows and widowers of U.S. citizens, and self-petitioning battered spouses and children. Applicants who have earned (or can be credited with) 40 quarters (credits) of coverage under the Social Security Act (SSA) may also request an exemption from the Form I-864 requirement to establish that a Form I-864 is not required. As of December 10, 2024, applicants make a request for an exemption from the Form I-864 requirement using the Application to Register Permanent Residence or Adjust Status ([Form I-485](#)).

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.