

Common Questions About The New Section 245(i)

Changes in the Immigration Law Attention Immigrants: There is no new "Amnesty" Don't Be Fooled!

Q) *What is the new section 245(i), and why is it important?*

A) The new 245(i) provides an important benefit to certain close relatives of U.S. Citizens and Legal Permanent Residents ("Green Card" holders) who are in the U.S. in unlawful immigration status. Under 245(i), these relatives will eventually be allowed to adjust to Legal Permanent Resident status without having to leave the U.S. for consular processing of their applications. This is important because many individuals with unlawful immigration status may be barred from re-entering the U.S. for up to 10 years if they depart for consular processing.

Q) *Is the new section 245(i) a new amnesty?*

A) No. It is only a way for immigrants who are already eligible to obtain legal status in the U.S. through a relative visa petition to do so without having to leave the U.S.

Q) *Which family members can U.S. Citizens and Legal Permanent Residents petition for?*

U.S. Citizens can petition for their spouses and children (married or unmarried, of any age.) U.S. Citizens over the age of 21 can also petition for their parents and their siblings.

Legal Permanent Residents can petition for their spouses and their unmarried children (of any age.)

Q) *What do I need to do to qualify under 245(i)?*

A) **In order to qualify under the new section 245(i), your U.S. Citizen or Legal Permanent Resident relative must file an I-130 visa petition for you by April 30, 2001.** You do not have to file your application for adjustment of status by April 30, 2001, only the I-130 visa petition. The INS filing fee for an I-130 is \$110.

Q) *What happens after the I-130 is filed?*

A) If your I-130 is filed by the April 30, 2001 deadline, you may adjust your status here in the U.S. but **you must not leave the U.S.** while you are waiting. The amount of time you have to wait depends on whether your petitioner is a U.S. citizen or permanent resident, and what your relationship is to her or him. **The adjustment process can be complicated and has serious risks; it is important that you get competent legal assistance when the time comes to adjust.**

When it is time for you to adjust your status (which may not be for several years), you will have to pay a \$1,000 fine to take advantage of the benefits of 245(i) and to get your Green Card without leaving the U.S. You will also need to prove that you were in the U.S. on December 21, 2000, so it is a good idea to keep proof of this in a safe place.

Q) *When the INS has approved the I-130 petition, will that give me legal status in the U.S.?*

A) NO! You still will be considered to be in unlawful status, and you will not be eligible for a work permit. **DO NOT LEAVE THE UNITED STATES UNTIL YOU GET YOUR GREEN CARD, OR YOU MAY BE BARRED FROM RETURNING OR GETTING YOUR GREEN CARD FOR MANY YEARS!!!!**

Q) *What if my U.S. Citizen or Legal Permanent Resident relative has already filed an I-130 visa petition for me?*

A) If your relative has already filed a visa petition for you, you don't have to file another petition or other application before the April 30, 2001 deadline. However, if the visa petition was filed after January 14, 1998 and you are in unlawful status, you will probably have to provide proof that you were in the United States on December 21, 2000 when it is time for you to adjust your status.

Q) *I heard there is a special visa and work authorization available to the spouses and children of legal permanent Residents. How do I qualify?*

A) Under the new law, the spouses and children under 21 of Legal Permanent Residents will be able to get a special "V" visa and permission to work in the U.S. **only if the Legal Permanent Resident already filed an I-130 application at least three years ago.** However, the INS will not start processing applications for this new visa for several months. You should check with an attorney or legal services provider in May or June of 2001.

For more information, contact an immigration attorney or contact Northwest Immigrant Rights Project. For updated recorded information on the new law call NWIRP at 1-888-297 9407.

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