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Protection of Section 245(k) for Employment-Based I-485

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Submitted by Chief Editor on Jul 26th 2017

Will there be any issue with my I-485 approval? If it gets denied, will my unlawful presence/out of status be counted from the time my I-94 expired? What should be my next steps?

ANSWER:

Audio FAQ: Protection of section 245 (K) for employment-based I-485 ^[2]

Audio Transcript

1. 245(k) says if you are an employment based applicant or spouse or child of an employment based applicant we will forgive you up to 180 days of being out of status or on authorized employment since the date of your last entry. Any period accumulated before last entry we can disregard. We only count from the date of the last entry. Hence it is a very strong permission to help you file I-485.
2. 245(k) is automatically given. The government actually applies for it themselves. You don't have to do anything special for it.
3. When you are in between statuses: H-1B extension pending or old I-94 expired you are not in status enough to apply for this kind of status. But if your status expired less than 180 days ago because of section 245(k) you can file Adjustment of Status. More...^[2]

Note: This is a verbatim transcript of the referenced audio/video media delivered as oral communication, and, therefore, may not conform to written grammatical or syntactical form.

Nonimmigrant Visas:

I-94 ^[3]

H-1 Visa ^[4]

General Nonimmigrant Visa ^[5]

Green Card:

Adjustment of Status ^[6]

Employment Based Green Cards ^[7]

Form I-485 [8]

FAQ Transcript:

Note: This is a verbatim transcript of the referenced audio/video media delivered as oral communication, and, therefore, may not conform to written grammatical or syntactical form.

Unless the context shows otherwise, all answers here were provided by [Rajiv](#) [9] and were compiled and reported by our editorial team from comments and blog on [immigration.com](#) [10]

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Links:

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- [3] <https://immigration.com/visa/nonimmigrant-visas/i-94>
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