

# Status Expiring During the Pendency of an H-1B extension

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Submitted by Chief Editor on Jan 8th 2019

1. I have approved I-140, on 7th yr of extension and my current H1B Visa and I-94 valid with emp A until dec 31,2018 based on my latest approval I received in Nov 1st week. I have another 1 month to apply for an extension and I am requesting my employer to apply in premium processing. 1)If my extension is applied in Premium before I-94 expiration but pending beyond my expiration date 12/31/2018, I will be 'out of status' even though 'authorized to stay' until decision is made. Is this correct that this may affect my future H1bs in case it is denied and attract NTA(notice to appear) in future because of my 'out of status' from date of expiration to date of denial or while leaving the country upon denial.
2. Is it better if I leave the country on the last day of my I-94 expiration(Dec 31, 2018) while my H1B extension is pending in order to avoid 'out of status' or 'unlawful presence' scenarios by staying here. If I leave the country while extension is pending in above scenario, is it possible for me to go for consular processing, get VISA stamped after it is approved and enter the US legally? or is h1b extension is considered as abandoned?

### **ANSWER:**

[Watch the Video on this FAQ:](#) [2]

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[2]

### Video Transcript

1. No, and there is no NTA even if it gets denied. You can leave the United States within a short period. After the denial you won't get an NTA.
2. You don't have to do that. There is no question of unlawful presence or being out of status when timely filed extension amendment or transfer request is pending and if you choose to leave the USA for whatever reasons you can always get a visa and come back. Traveling outside the USA does not abandon your H-1request[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:**

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### **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:**

[1] <https://immigration.com/faq/form-i-140/status-expiring-during-pendency-h-1b-extension>

[2] <https://youtu.be/Af6GvbzZqol?t=1108>

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

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

[5] <https://immigration.com/visa/nonimmigrant-visas/h-visa/h-1-visa>

[6] <https://immigration.com/visa/nonimmigrant-visas/general-nonimmigrant-visa>

[7] <https://immigration.com/greencard/green-card/form-i-140>

[8] <https://immigration.com/law/immigration-law/nta>

[9] <http://www.immigration.com/law-offices-rajiv-s-khanna-pc>

[10] <http://www.immigration.com>

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