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PROFESSIONAL CORPORATION

Canada-U.S. Blog

LEGAL DEVELOPMENTS AFFECTING CANADA-U.S. CROSS BORDER TRADE

NEXUS Pass Cancellations Can Have Employment Consequences

By Cyndee Todgham Cherniak on August 1st, 2015

Posted in NEXUS, Uncategorized



When you return home to Canada from travel abroad and receive the E311 “Declaration Card” from the airline to make your declaration to the Canada Border Services Agency (CBSA), you might not have your employer on your mind. If you complete your Declaration Card incorrectly, or forget to declare all purchases and acquisitions while on your trip, the ramifications can move to the workplace.

We recently were retained by a client who needed to have a NEXUS pass by his employer. A valid NEXUS pass was a precondition to getting work related security clearances. This became a problem when the CBSA cancelled his NEXUS privileges due to a misunderstanding about a declaration when he returned to Canada from the United States. It was one night, one item, one disagreement and employment panic set in.

If the CBSA cancels a NEXUS membership, they might inform you that you cannot reapply to the NEXUS program for up to seven (7) years. This can create problems for employees who are required by their employer to have a valid NEXUS membership. If a valid NEXUS membership is a requirement to employment and you have to wait seven years to re-apply for NEXUS membership, what are you to do?

The answer is that the CBSA will not issue a NEXUS pass on the basis that is required by your employer. The CBSA will not take your employment requirements into account. The CBSA has adopted a zero tolerance policy whether or not your mistake is deliberate or inadvertent. In short, the CBSA will not take into account that you may lose your job.

If your employer requires you to have a valid NEXUS membership or if you work in an area where your employer may require that you obtain a NEXUS membership, you should be extra careful when traveling. Please write down everything that you purchase abroad AND acquire from others (even as gifts of freebies at conventions). Make sure that you make inquiries as to the correct value for duty of what you receive, but did not purchase yourself. This is where you can get caught up (the CBSA will look for a value on the internet). Check and double check. Don't forget exchange rate adjustments. Add extra cushion and round up. For example, if you have cushion within your \$CDN 800 exemption limit for being away more than 48 hours, use it. There are no bonus points for declaring less.

Tags: Canad Border Services Agency, CBSA, employee, employer, NEXUS

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