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Tokers Beware: Marijuana Use May Preclude Entry to U.S.

The growing legalization of marijuana is prompting U.S. immigration officials to question foreign nationals about their personal marijuana use and/or their involvement, including employment, in the legal cannabis industry. This activity has reportedly resulted in the denial of U.S. immigration benefits to non-citizens, as well as bars to entry into the U.S. as visitors, workers or permanent residents. A mere admission by a non-citizen to use of or involvement with marijuana, even when legal where the activity occurred, may be considered to be in violation of U.S. law for purposes of immigration benefits, potentially resulting in seizures, fines, arrests and/or findings of inadmissibility to the U.S.

While a majority of U.S. states and Canada have now legalized the use of marijuana [including cannabidiol (CBD) oil] for either medical or recreational purposes, U.S. federal law prohibits the sale, possession, production and distribution of marijuana, and it remains a controlled substance with respect to U.S. immigration law. In a recent statement, U.S. Customs and Border Protection advised: “(g)enerally, any arriving alien who is determined to be a drug abuser or addict, or who is convicted of, **admits having committed, or admits committing, acts which constitute the essential elements of a violation of (or an attempt or conspiracy to violate) any law or regulation of a state, the United States, or a foreign country relating to a controlled substance, is inadmissible** to the United States” (emphasis added).

Many of these inquiries from U.S. immigration officials regarding marijuana use and involvement are occurring during applications for admission to the U.S., yet these questions may also impact applications and interviews for other benefits conducted within the U.S., such as naturalization and adjustment of status to permanent residence. As a result, all non-citizens should consider any and all activities which may be in violation of U.S. law. Involvement in the sale of marijuana also carries strict penalties; employment with a cannabis-related industry may have an impact on eligibility for U.S. immigration benefits even in the absence of any personal marijuana use.

All prospective applicants for U.S. immigration benefits, status or entry who are concerned about this issue should consult qualified immigration legal counsel in advance of any meetings or interviews with immigration-related officials. This includes, but is not limited to, applications for entry to the U.S., medical appointments for adjustment of status and other interviews with U.S. immigration

officials for permanent residence or U.S. naturalization.

Please contact Jenifer M. Brown, Kristin Kelley or Christl Glier with questions regarding U.S. immigration law.

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