INTELLECTUAL PROPERTY

CLIENT ALERT

MARCH/2019

NEW REGULATION OF COMMERCIAL CONTESTS AND PROMOTIONS IN BRAZIL

Law No. 13,756 / 2018 has been enacted concerning, among other matters, the Business Promotion and Philanthropic Drawings, which are no longer operated by Caixa Econômica Federal (CEF), through the Trade Promotion Representation (REPCO), and will be managed by the Fiscal, Energy and Lottery Secretariat (SEFEL), which is linked to the Ministry of Economy.

As of the date of the publication of this law, the Ministry of Economy is responsible for examining applications for authorization, issuing authorizations and supervising the operations referred to in Law No. 5,768 of 1971, which regulates the free distribution of prizes. Law 13,756 / 2018 also established that requests for authorization that are pending in the CEF should be passed on to the Ministry of Economy.

The procedure for authorization and supervision of these activities is now under the supervision of SEFEL and must be done through the Commercial Promotion Control System (SCPC). With SCPC, the procedure ceases to require paper documents, being now electronic and must be done entirely online - through which the authorization certificate will also be issued. The term for filing the application is 40 to 120 days before the beginning of the promotion and the Federal Tax Liability Payment Form must be obtained before the National Treasury.

Other changes brought by Law 13.756 / 18 that deserve attention are:

- The authorizations are granted on a precarious basis and by a promotional event, which cannot exceed a period of 12 (twelve) months;

- The inspection fee referred to in art. 50 of Provisional Measure 2,158-35 / 2001, will be monetarily restated, provided that the value of the update does not exceed the variation of the official inflation index calculated in the period since the last correction, at intervals of not less than one (1) year, in accordance with the Regulation;

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- The violations to Law No. 5,768 / 1971, and its regulations, previously not mentioned in the provisions of its articles 12, 13 and 14, subject the offender individually or cumulatively to the following sanctions provided for in article 28 of Law 13,756 / 2018: (a) withdrawal of authorization; (b) prohibition to carry out operations governed by Law No. 5,768 / 1971, for a period established by the Ministry of Economy, which may not exceed two (2) years; and (c) a fine of up to one hundred percent (100%) of the sum of the values of the assets promised as prizes, to be established by the Ministry of Economy.

This law was published in the Brazilian Official Gazette in December 13, 2018.

Our Intellectual Property & Information Technology department is available to clarify any doubts regarding this subject.

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