



NEW REGULATION ON COMMERCIAL PROMOTIONS

TAX ALERT

MAY 2018



On 22 May 2015, the Government issued the Decree 81/2018/ND-CP superseding Decree 37/2006/ND-CP providing Subordinate Guidance to Law on Commerce on commercial promotions. Decree 81 takes effect on 15 July 2018 with a number of notable changes as follows:

- Decree 81 defines businesses that carry out commercial promotions, including direct promotions, promotions via distributors and promotion via companies providing promotion services;
- Cash can be used for promotions with some exceptions. Based on this new regulation, supports in cash may be deemed as promotions which are required to be notified to competent authorities before carrying out the activities;
- Alcohol, lotteries, cigarettes, milk products replacing breast milk, medications (except for case of trade promotions granted to pharmaceutical distributors) must not be used for promotions;
- For promotions in the form of price reduction, the 50% cap on maximum discounts is removed for goods/services under the State's price stabilisation policy, fresh products and goods/services sold by businesses in the process of liquidation and changing business location and activities;
- For "centralised" promotion campaigns which are organised by State authorities or those organised on special events such as holiday, Tet holidays, etc., or for commercial promotion activities decided by the Prime Minister, the value of the promotion goods and services can be up to 100%. Previously, the value for promotion goods and service is capped at 50%;
- The total duration of a promotion program in the form of a price reduction for any type of goods or service shall not exceed 120 days per annum (instead of the current 90-day cap);
- Companies are not allowed to conduct promotions under the form of multi-level marketing businesses if they have not registered the multi-level marketing business;
- Decree 81 supplements the provision of commercial promotions via internet platform for organisations providing e-commerce and website platforms;
- The deadline to notify the commercial promotions has been reduced from 7 days to 3 days prior to the promotion implementation;
- Businesses are not required to notify promotions in the following cases:
 - Total value of the promotion goods/services is less than VND 100 million; and
 - The businesses that only carry out sales and promotion activities via e-commerce and website platform.
- The timeline for the competent authorities to acknowledge on the commercial promotion notification has been reduced from 7 days to 5 days;
- The information of joining party to the linked commercial promotion must be notified to the competent authorities.

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