

Promotional activities in Dubai

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As per the constitution of the United Arab Emirates ('UAE'), Islam is the official religion of the country, therefore games of chance (gambling) are prohibited. However, there are companies in Dubai which allow consumers the possibility of winning prizes where a value is exchanged. Each emirate has implemented laws and regulations that prohibit gambling and gambling related activities. In line with Islamic beliefs, UAE laws that prohibit gambling are expressly set out and other laws indirectly prohibit gambling. That being said, a promotional activity where a business offers draws or prizes in Dubai shall be evaluated on a case by case basis. In circumstances where such activities are undertaken, the business should seek approval from the Department of Economic Development in Dubai ('DED'). Companies advertising promotions that indicate cash prizes or gambling activities could face serious consequences such as hefty fines or imprisonment.

This article will discuss the legal scope of undertaking promotional activity in Dubai including the risks and limitations in carrying out such promotions.

Lotteries in Dubai

Since the commencement of Emirates Lottery, which is backed by the UAE government, we have seen a lot of interest from clients who wish to emulate the concept of the Emirates Lottery. In relation to the Emirates Lottery, our understanding is that it is supported by the UAE Government and has been instituted with the objective of achieving community development. We are aware that the Emirates Lottery is a fatwa-approved digital collectable scheme with optional free entry to a weekly draw when purchasing an Emirates Lottery collectable. The backdrop in which the Emirates Lottery is being promoted is an exception to the rule and therefore, unlikely to be replicated, in case a private party wishes to use it as a precedent to obtain a similar licence for such a lottery even if it considered sharia-compliant. That said, we wish to highlight that this is based on our understanding of the current policy, which may change in the future.

Promotions in Dubai

Companies in the UAE may choose to engage in promotional activities by carrying out draws through their licensed activity, such as a general trading licence, rather than directly selling products to enter draws. For example, if a company in Dubai wishes to conduct draws as a promotion, it is required to obtain a Promotion Permit from the DED as such draws are regulated by that government body. This permit is an official document issued on a monthly or annual basis by the DED. According to the DED Permit Guidebook, Promotional Permits can be granted only if the promotion is in the form of benefits, incentives, in-kind prizes or vouchers. On the other hand, the DED Promotional Permit prohibits companies that offer promotional draws in exchange for winning cash prizes. The DED Permit Guidebook also illustrates that raffle tickets used to enter a draw may not be sold for cash but can be distributed and promoted when goods or services are purchased. For the time being, the DED has suspended and are currently reviewing the process of granting Promotional Permits.

Conducting online promotions

In adapting to the new norms, the DED has launched new initiatives such as the DED Trader licence to promote e-commerce in facilitating online commercial activities, which has seen an 83 per cent increase of licenses issued from January to the end of June 2020. Currently, there are no permitted activities in the UAE free zones or the DED which allow for online lotteries. However, a company that intends to sell products online may conduct promotional draws, subject to the DED approval.

Risks

Companies intending to conduct promotional draws should be aware of the risks involved with solely conducting promotional activities. Companies that do not follow the DED guidelines, can be subject to a suspension of all their activities including the company licence in addition to a fine. Promotional Permits are issued on an annual or monthly basis by the DED, therefore, the DED has full discretion to refuse an application for renewal of the DED Promotional Permits. We are aware that currently the DED is reviewing the existing policy for the issuance of Promotional Permits and may review its policy in this regard.

Conclusion

In conclusion, the activity of a lottery as a stand-alone activity cannot be licensed, such as in the case of the Emirates Lottery (which is unlikely to be permitted for private parties). On the other hand, promotional draws through a commercial licensed activity such as general trading may be granted with the prior approval of the DED. The DED is reconsidering its policy of re-issuing Promotional Permits and we hope that its new policy encompassing promotions is more exclusive so that it can support businesses in Dubai.

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