



# Texas Lottery Commission

Commissioners - Mary Ann Williamson, Chairman • David J. Schenck • J. Winston Krause



Philip D. Sanderson  
Director

## CERTIFIED MAIL NO. 7005 1820 0004 4682 7343 RETURN RECEIPT REQUESTED

November 12, 2009

Juanda Powell-Berquist  
Creative Director, CAO  
Christian Aunts & Uncles  
P.O. Box 812205  
Austin, TX 78708

Re: Bingo Advisory Opinion Request No. 2010-0911-0001

Dear Ms. Powell-Berquist:

This advisory opinion responds to your request for a bingo advisory opinion received on September 11, 2009. In response to our request for additional information, you provided additional information on October 1, 2009. Your request includes a number of questions related to the permissibility of playing a game called *Bible Bingo*. You indicated that Christian Aunts and Uncles is considering inviting the public to attend educational bingo occasions as a method of raising funds to support its programs. You state that the organization would like to accept donations from participants and to give prizes.

You explain that the organization will use bingo ball draw equipment bought from a licensed distributor that has balls numbered from one to forty-two. Rather than numbers, the squares on the card face will each contain a specific image and scripture that is assigned a number from 1 to 42. Ball numbers will be randomly selected out of the 42 possible balls and announced. Presently, the organization shuffles a deck of cards with the 42 images and the caller randomly draws a card instead of a ball.

You request responses to the following:

1. Whether a Bible Bingo product may be used instead of a normal bingo card;
2. a. Whether a not-for profit organization may conduct Bible Bingo occasions of more than 15 people in a public place if fund raising is not the purpose;  
b. Whether the organization may offer its Bible Bingo product for sale to the public.
3. Whether a license is required for manufacturing educational bingo products such as Bible Bingo for the general public;

4. Whether a for-profit business, which has designed an educational bingo product such as Bible Bingo, for churches, schools, and other Christian organizations, may host bingo games for the general public as promotional and advertising purposes at a public facility where the game is played as a demonstration and nominal prizes are given to participants.

**ANSWER:**

First, the organization does not need Commission approval to use Bible Bingo cards because the game as described is akin to loteria. Loteria is defined in Charitable Bingo Administrative Rule 16 TAC §402.301(a)(13) as a “type of bingo that utilizes symbols or pictures. Normally playing cards are utilized instead of numbered balls.” Subsection (g) of rule 402.301 further provides that “[l]oteria cards are not considered bingo equipment as defined by Occupations Code, §2001.002(5).” Therefore, such cards may be used without Commission approval.

Second, you ask whether a not-for profit organization may conduct Bible Bingo occasions of more than 15 people in a public place even if fund raising is not the purpose. The Bingo Enabling Act (BEA), Texas Occupations Code §2001.551(a) states that “bingo” means

“ . . . a specific game of chance, commonly known as bingo or lotto, in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random, whether or not a person who participates as a player furnished something of value for the opportunity to participate.”

Thus, whether the organization charges a fee to play does not determine whether the game falls within the definition of bingo. Section 2001.551(b) of the BEA further provides that a person commits an offense if the person conducts, promotes, or administers bingo without a license other than under certain circumstances. The exempted circumstances do not include conducting bingo occasions of more than 15 people in a public place so long as fund raising is not the purpose.

You next ask two questions related to the sale and manufacturing of games such as Bible Bingo. Because the Bible Bingo cards as described in your request fall within the definition of loteria cards, the organization may manufacture and offer its Bible Bingo product for sale to the public without obtaining a manufacturer’s or distributor’s license.

Finally, you ask whether a for-profit business may host bingo games such as Bible Bingo for the general public for promotional and advertising purposes at a public facility where the game is played as a demonstration and nominal prizes are given to participants. Section 2001.551(b)(4) of the BEA provides an exemption from conducting unlawful bingo for the conduct of bingo on behalf of a business conducting the game for promotional or advertising purposes under the following conditions:

- (A) the game is conducted by or through a newspaper or a radio or television station;

- (B) participation in the game is open to the general public and is not limited to customers of the business;
- (C) playing materials are furnished without charge to a person on request; and
- (D) no player is required to furnish anything of value for the opportunity to participate.

Furthermore, subsection (f) of §2001.551 provides that a game that meets these conditions is subject to the following restrictions:

- (1) A person licensed or required to be licensed under this chapter or having an interest in a license under this chapter may not be involved, directly or indirectly, in bingo, except that a licensed manufacturer or licensed distributor may sell or otherwise furnish bingo equipment or supplies for use in a game;
- (2) A person conducting bingo may purchase or otherwise obtain bingo equipment or supplies through a newspaper, a radio or television station, or an advertising agency and, unless otherwise authorized by the commission, only from a licensed manufacturer or licensed distributor;
- (3) A licensed manufacturer or licensed distributor may sell or otherwise furnish bingo equipment or supplies for use in a game only to or through a newspaper or a radio or television station or through an advertising agency acting on behalf of a person authorized to conduct the game; and
- (4) The commission by rule may require a person conducting or involved in conducting the game to:
  - (A) notify the commission of:
    - (i) the persons involved in conducting the game;
    - (ii) the manner in which the game is to be conducted; and
    - (iii) any other information required by the commission; and
  - (B) keep records of all transactions connected with the game available for commission inspection.

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## SUMMARY

The organization does not need Commission approval to use Bible Bingo cards because the game as described in your request is akin to loteria. Because subsection (g) of Charitable Bingo Administrative Rule 16 TAC §402.301 further provides that “[l]oteria cards are not considered bingo equipment as defined by Occupations Code, §2001.002(5),” such cards may be used without Commission approval.

Whether the organization charges a fee to play does not determine whether a game falls within the definition of bingo. Based on the information you provided, your organization would not qualify for the exemptions provided in the Bingo Enabling Act, Texas Occupations Code §2001.551(b)(2) and (3) and thus would be required to hold a license to conduct bingo. Because the Bible Bingo cards fall within the definition of loteria cards, the organization may

manufacture and offer its Bible Bingo product for sale to the public without obtaining a manufacturer's or distributor's license.

A for-profit business may host bingo games such as Bible Bingo for the general public as promotional and advertising purposes only if it meets the conditions and restrictions provided in the Bingo Enabling Act, Texas Occupations Code §2001.551(b)(4) and (f).

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This advisory opinion cannot be construed as a tax ruling or otherwise interpretive of the Internal Revenue Code. The information provided is completely limited to the context of the Bingo Enabling Act and the Charitable Bingo Administrative Rules.

This advisory opinion is based on the laws, rules and regulations in effect at the time of its issuance. All of the information provided herein is subject to change in law.

This opinion is purely advisory in nature and is limited to the particular questions at issue and to the facts presented in the request. Therefore, this opinion must not be relied upon as a previous determination regarding any conduct which is not substantially consistent with the opinions and facts stated in the request.

Yours truly,



Philip D. Sanderson, Director  
Charitable Bingo Operations Division

cc: Mary Ann Williamson, Chairman  
David J. Schenck, Commissioner  
J. Winston Krause, Commissioner  
Gary Grief, Deputy Executive Director  
Kimberly L. Kiplin, General Counsel