



Texas Lottery Commission

Commissioners:

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Peggy A. Heeg • Doug Lowe • Robert Rivera



Alfonso D. Royal III
Director

CERTIFIED MAIL NO. 91 7199 9991 7030 8539 6272 RETURN RECEIPT REQUESTED

May 1, 2017

Kris Keller
7515 Shadylane Drive
San Antonio, TX 78209

Re: Bingo Advisory Opinion Request No. 2017-0306-0002

Dear Mr. Keller,

This opinion responds to your request for a bingo advisory opinion received on March 6, 2017, in which you asked two questions. Below are your questions and our responses.

Question 1:

Is a licensed organization allowed to run a bingo game in which one ball draw can be used to award multiple prizes of \$50 or less using multiple bingo cards?

Answer:

No. Bingo is defined in the Bingo Enabling Act ("BEA") as "a specific game of chance, commonly known as bingo or lotto, in which prizes are awarded on the basis of designated numbers or symbols conforming to randomly selected numbers or symbols." TEX. OCC. CODE § 2001.002(4). Furthermore, the Texas Lottery Commission has issued multiple rules applicable to the operation of bingo. *See, e.g.*, TEX. ADMIN. CODE § 402.200 (entitled "General Restrictions on the Conduct of Bingo") (the "Conduct Rules").

Assuming that your question involves a game of chance in which only one bingo ball is drawn, such a game cannot qualify as a game of bingo under either the statutory definition or the Conduct Rules. The BEA definition of bingo references "designated numbers or symbols." A game that is played with only one ball cannot have "numbers or symbols." In addition, the Conduct Rules repeatedly refer to bingo game mechanics in the plural. A bingo caller must "be the only person to handle the bingo balls during each bingo game" – which means that multiple balls will be called. § 402.200(k)(2). The caller will "call all numbers" – which means that multiple numbers will be called. § 402.200(k)(3). And the caller must "return the bingo balls to the bingo receptacle" at the end of the game – which means that multiple balls were pulled from the receptacle. § 402.200(k)(5). The verification rules state that the "numbers" appearing on the

winning card must be verified (§ 402.200(l)(1)) and a player may request verification of those “numbers.” § 402.200(l)(2). Finally, the Conduct Rules require that a “pattern” is required for a bingo game to be won. § 402.200(h)(3)(C) (“the patterns needed to win”) & § 402.200(k)(4)(A) (“the pattern needed to win”). “Pattern” is not defined in the BEA or the Conduct Rules, but generally encompasses more than one element. *See, e.g.,* Oxford English Dictionary (3rd Ed. 2010) (“a repeated decorative design”); Black’s Law Dictionary (10th ed. 2014) (a recognizably consistent series); Merriam-Webster Dictionary (11th ed. 2009) (“a repeated form or design”).

Any game of chance played by the draw of a single ball alone is not a game of bingo as contemplated by the BEA or the Conduct Rules. Therefore, a game in which one ball draw is used to award multiple prizes is not an authorized game of bingo. A licensed organization would not be permitted to conduct such a game during a bingo occasion. BEA § 2001.416(a) (“A game of chance other than bingo . . . may not be conducted or allowed during a bingo occasion.”). Such a game may violate provisions of the Penal Code or other relevant law, a conclusion beyond the scope of this opinion.

If instead, your question refers to a game of bingo played on multiple sheets of identical bingo cards, whereupon “one ball draw” causes a player to win a prize of \$50 or less as many times as they had bingo cards, that type of game would be subject to the prize limits in the BEA. The BEA states that a bingo prize for a single game may not have a value of more than \$750 for a single game. § 2001.420(a). Furthermore, the aggregate value of prizes at a single bingo occasion must not exceed \$2,500, except for prizes from pull-tab bingo and “bingo games that award individual prizes of \$50 or less.” § 2001.420(b).

A bingo game where one ball draw causes one player to win \$50 many times over based on duplicate bingo cards is not a bingo game that is awarding individual prizes of \$50 or less as contemplated by the BEA. Such a game would guarantee that the winner will receive more than \$50 as a bingo prize. Even if the cards are technically separated, for that bingo game, the prizes were all won based on identical cards and must count together as an “individual prize” for purposes of the statute.

Therefore, these game prizes could not qualify for the exception outlined in Section 2001.420(b)(2). Allowing such a game to avoid the statutory limitations would be contrary to both the plain text and the spirit of the statute. That type of bingo game would be subject to the prize limitations outlined above; namely, that the prize in the game would be subject to the \$750 prize limit and count towards the \$2,500 limit for that bingo occasion.

Question 2:

If computers are being routed from one bingo hall to another bingo hall and the computers are transported on public property, would the computers during the time they are on public property be considered off bingo premises?

Answer:

Generally, yes. "Premises" is defined in the BEA as the "area subject to the direct control of and actual use by a licensed authorized organization or group of licensed authorized organizations to conduct bingo." § 2001.022(22). While you do not define "public property," for the purposes of this opinion, "public property" means "state- or community-owned property not restricted to any one individual's use or possession." Black's Law Dictionary (10th ed. 2014). To the extent you specifically mean public roads and streets that connect bingo premises but are not in themselves used to conduct bingo, such public property cannot meet the statutory definition of bingo premises.

To be considered a bingo premises, the property must be under the control of the licensed authorized organization or where bingo prizes are awarded. Generally speaking, public property will not meet this standard. There could be situations where public property is used by a licensed authorized organization in order to conduct bingo. In those cases, that public property could potentially be considered bingo premises.

Please keep in mind the requirements that licensed authorized organizations must meet with regard to their bingo equipment and supplies, even when transporting said equipment on public property, as outlined in Bingo Advisory Opinion No. 2014-0227-0002, dated April 28, 2014, and in the relevant rules and statutes. In addition, this opinion is in no way approving or disapproving of the practice of transporting bingo equipment and supplies via public property.

SUMMARY

A licensed organization cannot conduct a game whereby one ball draw is used to award multiple prizes during a bingo occasion because such a game is not bingo. The game of bingo requires that more than one ball is drawn, as shown by reference to the relevant statute and rules.

A bingo game whereby one ball draw causes a player to win a prize of \$50 or less as many times as they had identical bingo cards is subject to the statutory prize limits. Such a game guarantees a prize to an individual player greater than \$50 and cannot qualify for the \$50 statutory exception.

Computers being transported from one bingo hall to another on public roads and streets are considered off bingo premises. Public property is not considered bingo premises when it is not under the control of the licensed organization and actually used to conduct bingo or award bingo prizes.

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 BEA 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.

Sincerely,



Alfonso D Royal III, Director
Charitable Bingo Operations Division

cc: J. Winston Krause, Chairman
Carmen Arrieta-Candelaria, Commissioner
Peggy A. Heeg, Commissioner
Doug Lowe, Commissioner
Robert Rivera, Commissioner
Gary Grief, Executive Director
Bob Biard, General Counsel