

BAO 2004-0322-00007	Date Issued: 05/20/2004	View Request RQ 2004-0322-00007
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Summary:	Consistent with Occupations Code §2001.002(16)(B), an organization that adds a guarantee of performance to bingo equipment to further its promotion or sale is a "manufacturer."
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**REGISTERED MAIL NO. RR 422 385 357 US
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BAO # 2004-007

May 19, 2004

Video King Gaming Systems
d/b/a/ Power Bingo King
Attn: Mark Newton, Director of Regulatory Compliance
Unit 12-59 Scurfield Boulevard
Winnipeg, Manitoba, Canada R3Y1V2

Re: Request for Advisory Opinion Relating to Manufacture of Bingo Balls

Dear Mr. Newton:

On March 22, 2004, the Texas Lottery Commission received your letter requesting an advisory opinion related to whether BK Entertainment may be considered a manufacturer of bingo balls. The following is the question posed in your letter:

The question was then raised as to the validity of our claim as a manufacturer of bingo balls. It is our opinion that we are adding to the balls, by applying the warranty and as such satisfy the requirements of Section 2001.002(16)(B).

You state in your request letter that BK Entertainment (BK) manufactures many types of bingo equipment. BK assembles some of the equipment from subparts or raw materials. However, BK obtains its bingo balls from an off-shore manufacturer and adds to them only "the value added benefit of a *guarantee of performance*, which BK applies to all of its products. Simply stated, the question is whether BK Entertainment's addition of a *guarantee of performance* meets the definition of a manufacturer of bingo equipment.

ANSWER:

BK's addition of its guarantee of performance to ping pong balls is sufficient to meet the definition of a manufacturer provided in Occupations Code §2001.002(16)(B). This section states the following in pertinent part:

Manufacturer means "a person who . . . adds to . . . bingo equipment . . . to further its

promotion or sale for or use in a bingo game. . . .”

The definition does not limit the type of addition that a manufacturer might make to bingo equipment other than to specify that the addition should be to “further the promotion or sale of the equipment.” BK adds to its bingo balls by attaching its guarantee of performance. Generally, the addition of a guarantee benefits a customer. Such an addition aims to further an item’s promotion or sale.

SUMMARY

Consistent with Occupations Code §2001.002(16)(B), an organization that adds a guarantee of performance to bingo equipment to further its promotion or sale is a “manufacturer.”

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,

William L. Atkins, Director
Charitable Bingo Operations Division

Cc: C. Tom Clowe, Jr., Chairman
James A. Cox, Jr., Commissioner
Rolando Olvera, Commissioner
Kimberly L. Kiplin, General Counsel