

BAO 2004-0624-00019	Date Issued: 08/24/2004	View Request <a href="#">RO 2004-0624-00019</a>
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Summary:	Making a contribution to the charity of an individual's choice would not constitute paying or rewarding a volunteer bingo monitor financially with the use of charitable funds if the individual received no goods or services in exchange for the contribution. The organization must maintain records necessary to substantiate that the disbursements are for a cause, deed or activity that is consistent with the organization's federal tax exemption or with the purposes and objectives for which the organization qualified as an authorized organization under Texas Occupations Code Chapter 2001.
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**FIRST CLASS UNITED STATES MAIL  
and  
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RETURN RECEIPT REQUESTED**

BAO # 2004-0624-019

August 24, 2004

Owen Anderson  
4165 Bluebonnet Hilltop Drive  
Fort Worth, Texas 76126

Re: Request for Advisory Opinion, #2004-0624-019

Dear Mr. Anderson:

On June 24, 2004, the Texas Lottery Commission (the "Commission") received your letter requesting an advisory opinion related to charitable contributions. Below are your questions followed by the Commission's response.

Benbrook Lakeshore Neighbors Association (BLNA) cannot pay monitors for their time or travel expenses, but the BLNA Board has voted to make donations to charities of choice of those who are willing to volunteer to monitor the Bingo session.

Is this just another way of paying/rewarding a monitor (member of the BLNA) financially with the use of charitable funds? An indirect payment to the individual for services rendered.

As a result of the above action, funds were given to the Texas Christian University Alumni Association. These funds were sourced from the "Texas Bingo Conductor's Quarterly Report," line 18, titled Charitable Distributions which in turn were placed in the BLNA's checking account and then distributed to the TCU Alumni Association.

Is the TCU Alumni Association an association qualified to receive charitable funds?

ANSWER:

Texas Occupations Code §2001.453(a) provides that an organization may withdraw funds from its bingo account only for payment of necessary and reasonable expenses incurred and paid in connection with the conduct of bingo, charitable purposes, or deposit into a bingo savings account. Authorized disbursements should be made from the organization's bingo account.

Texas Occupations Code §2001.454(b) provides in pertinent part:

(b) Except as otherwise provided by law, the net proceeds derived from bingo and any rental of premises are dedicated to the charitable purposes of the organization only if directed to a cause, deed, or activity that is consistent with the federal tax exemption the organization obtained under 26 U.S.C. Section 501 and under which the organization qualifies as a nonprofit organization as defined by Section 2001.002. If the organization is not required to obtain a federal tax exemption under 26 U.S.C. Section 501, the organization's net proceeds are dedicated to the charitable purposes of the organization only if directed to a cause, deed, or activity that is consistent with the purposes and objectives for which the organization qualified as an authorized organization under Section 2001.002.

If the contribution identified in your letter is used for charitable purposes consistent with those of BLNA, then the organization may choose to make contributions out of its bingo account. If not, then the organization may not claim that the contribution costs are disbursements for charitable purposes.

Making a contribution to the charity of an individual's choice would not be a way of paying or rewarding a monitor (member of the BLNA) financially with the use of charitable funds if the individual received no goods or services in exchange for the contribution. In this case the BLNA provided to the Commission a letter from Texas Christian University dated May 5, 2004, acknowledging receipt of a gift of \$750.00 from BLNA. The letter specifically states that no goods or services were provided in exchange for the gift. Thus, there appears to be no indirect payment to the individual for services rendered.

In addition, the organization must maintain records necessary to substantiate that the disbursements are for allowable charitable purposes. If the organization can prove that the disbursements are directed to a cause, deed or activity that is consistent with the federal tax exemption the organization obtained under 26 U.S.C. Section 501 or with the purposes and objectives for which the organization qualified as an authorized organization under Section 2001.002, then those costs may be recognized as a charitable distribution and therefore an allowable use of funds derived from the conduct of bingo. As noted above, the organization must maintain records necessary to substantiate the

authorized use of fund

## **SUMMARY**

Making a contribution to the charity of an individual's choice would not constitute paying or rewarding a volunteer bingo monitor financially with the use of charitable funds if the individual received no goods or services in exchange for the contribution. The organization must maintain records necessary to substantiate that the disbursements are for a cause, deed or activity that is consistent with the organization's federal tax exemption or with the purposes and objectives for which the organization qualified as an authorized organization under Texas Occupations Code Chapter 2001.

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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,

William L. Atkins, Director  
Charitable Bingo Operations Division

cc: C. Tom Clowe, Jr., Chairman  
Jim Cox, Jr., Commissioner  
Rolando Olvera, Commissioner  
Kimberly L. Kiplin, General Counsel  
Sandra Joseph, Assistant General Counsel  
Marshall McDade, Audit Manager