

BAO 2004-0701-00020	Date Issued: 08/30/2004	View Request RO 2004-0701-00020
Summary:	According to Texas Occupations Code §§2001.453 and 454, an organization may use funds derived from the conduct of bingo to contribute to a church building fund so long as the disbursement is for charitable purposes consistent with those of the organization.	

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RETURN RECEIPT REQUESTED**

BAO # 2004-0701-020

August 30, 2004

Owen Anderson
4165 Bluebonnet Hilltop Drive
Fort Worth, Texas 76126

Re: Request for Advisory Opinion Relating to Use of Bingo Funds

Dear Mr. Anderson:

On July 1, 2004, the Texas Lottery Commission (Commission) received your request for an advisory opinion related to charitable donations. Below is your question followed by the Commission's response.

Is the contributing of Bingo derived funds to a church building fund a charitable donation?

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 as follows:

(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 qualifies as an authorized organization under Section 2001.002.

If the contribution is for charitable purposes consistent with those of the licensed authorized organization, then the organization may choose to make a contribution to a church building fund out of its bingo account. If not, then the organization may not claim that the disbursement is for charitable purposes. Thus, the contribution may or may not be allowable as a disbursement for charitable purposes under Texas Occupations Code, §§2001.453 and 454.

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, then those costs may be recognized as a charitable distribution and, therefore, an allowable use of funds derived from the conduct of bingo.

SUMMARY

According to Texas Occupations Code §§2001.453 and 454, an organization may use funds derived from the conduct of bingo to contribute to a church building fund so long as the disbursement is for charitable purposes consistent with those of the organization.

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
Marshall McDade, Audit Manager
Sandra Joseph, Assistant General Counsel