

BAO 2005-0628-0050	Date Issued: 08/23/2005	View Request <a href="#">RQ 2005-0628-0050</a>
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Summary:	Units and members are required to comply with reporting requirements under the Bingo Enabling Act and Bingo Administrative Rules. Since required unit reporting forms were not available, a unit may refer back to each charity's quarterly reports for 2004 and count the individual over-distributions towards the amount owed by the unit insofar as the charity was a member of the unit.
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CERTIFIED MAIL NO. 7001 2510 0001 4202 4159

BAO # 2005-0628-0050

August 23, 2005

Melody Green  
16802 Park Hill  
Dallas, Texas 75248

Re: Reporting

Dear Ms. Green:

On June 28, 2005, the Texas Lottery Commission (Commission) received your advisory opinion request. Below is your question followed by the Commission's answer.

Since the quarterly reports for unit accounting were not available until recently, each charity reported to the commission and paid taxes via their own separate reports and were given their own distribution letters. If the distribution letters sent concerning the distribution due June 30, 2005 based upon the unit quarterly report for 20051 requires a certain amount of distribution, can the unit refer back three to four quarters of each charities quarterly reports for 2004 and count their individual over-distributions towards the amount owed for 20051, since the unit reports were not available, but each charity was in a unit for 2004?

ANSWER:

Tex. Occ. Code § 2001.438(f) provides:

Each licensed authorized organization that is a member of the unit shall be jointly and severally liable for:

(1) compliance with the requirements of this subchapter and the rules of the commission

relating to the filing of required reports;

. . .

Charitable Bingo Administrative Rule 16 TAC § 402.203 (previously codified as 16 TAC § 402.602) requires:

(i) Unit Recordkeeping.

(1) Each unit must file a quarterly report, on a form prescribed by the Commission .

. .

(2) Each member of a unit must file a quarterly report, on a form prescribed by the Commission . . . .

Although § 402.602<sup>[\[1\]](#)</sup> was effective June 16, 2004 as published in 29 Tex. Reg. 5790, unit quarterly report forms were not available from the Charitable Bingo Operations Division until January 1, 2005. As a result, licensed organizations continued to report and pay taxes individually, but a unit was not able to report on the prescribed Commission form. Under these circumstances, if the unit quarterly report for the first quarter of 2005 requires a distribution, nothing in the Bingo Enabling Act or the Administrative Rules prohibits a unit from referring back to each charity's quarterly reports for 2004 and counting the individual over-distributions towards the amount owed by the unit insofar as the charity was a member of the unit.

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## SUMMARY

Units and members are required to comply with reporting requirements under the Bingo Enabling Act and Bingo Administrative Rules. Since required unit reporting forms were not available, a unit may refer back to each charity's quarterly reports for 2004 and count the individual over-distributions towards the amount owed by the unit insofar as the charity was a member of the unit.

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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  
James A. Cox, Jr., Commissioner  
Rolando Olvera, Commissioner  
Kimberly L. Kiplin, General Counsel

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[\[1\]](#) Recodified as 16 TAC § 402.203 effective March 21, 2005 as published in 30 Tex. Reg. 1630.