

BAO 2006-0316-0010	Date Issued: 05/24/2006	View Request RQ 2006-0316-0010
Summary:	Section 2001.457 of the Bingo Enabling Act, sets forth the minimum amount, but does not prescribe the total amount that must be disbursed for charitable purposes. All net proceeds from bingo, not just the minimum amounts required by section 2001.457, must be devoted to charitable purposes. Attorney General Opinion JC-463 (2002), relies on the common-law rule that interest becomes part of the fund to which it accrues. Accordingly, interest becomes part of a bingo savings account and is subject to all requirements and restrictions that apply to funds in a bingo savings account.	

CERTIFIED MAIL NO. 7001 2510 0001 4202 4630

BAO # 2006-0316-0010

May 24, 2006

Leon Brandt
826 Strange Drive
Richmond, TX 77469-3933

Re: Bingo Accounts

Dear Mr. Brandt:

This advisory opinion responds to your request which was received by the Texas Lottery Commission (Commission) on March 16, 2006. By letter dated March 26, 2006, you revised your request after the Commission requested additional information from you. Below is your revised request, followed by the Commission’s response.

Question 1. After a bingo session and all prizes have been awarded, the money is deposited as required by Bingo rules. Reasonable expenses are then deducted and the formula for the 35% charitable bingo is used and then quarterly distributions are made. Does the balance of this money ever become a general fund or does it remain forever in a 'Bingo' account?"

Question 2. Money transferred from a Bingo checking account to a Bingo savings account and there to remain as an interest bearing savings. Can the interest be used in a General account or does this remain as a Bingo Income?

RESPONSE:

Your first question appears to be based on an incorrect understanding of the requirements of the Bingo Enabling Act. Several different provisions of the Bingo Enabling Act are relevant to the first question. Section 2001.454 provides that an organization that conducts bingo under the Bingo Enabling Act must devote all net proceeds to the organization's charitable purposes. The term "net proceeds" is defined as follows:

(A) in relation to the gross receipts from one or more bingo occasions, the amount remaining after deducting the reasonable sums necessarily and actually expended for expenses under Section 2001.458 and the fee on prizes under Section 2001.502; and

(B) in relation to the gross rent or other consideration received by a licensed authorized organization for the use of its premises, fixtures, or equipment by another license holder, the amount remaining after deducting the reasonable sums necessarily and actually expended for any janitorial services and utility supplies directly attributable to the use of the premises, fixtures, or equipment. Section 2001.002(18).

A separate section, section 2001.457, sets out a formula for determining the minimum amount that must be disbursed for charitable purposes before the end of each quarter. It does not prescribe the total amount that must be disbursed for charitable purposes. In short, the answer to the first question is that all net proceeds from bingo, not just the minimum amounts required by section 2001.457, must be devoted to charitable purposes.

The second question has to do with interest earned on a bingo savings account. *See generally* Texas Occupations Code § 2001.451 (an organization that conducts bingo may maintain an interest-bearing savings account). The interest becomes part of the bingo savings account and is subject to all requirements and restrictions that apply to funds in a bingo savings account. Attorney General Opinion JC-463 (2002) (common-law rule is that interest becomes part of the fund to which it accrues).

SUMMARY

Section 2001.457 of the Bingo Enabling Act, sets forth the *minimum* amount, but does not prescribe the *total* amount that must be disbursed for charitable purposes. All net proceeds from bingo, not just the minimum amounts required by section 2001.457, must be devoted to charitable purposes. Attorney General Opinion JC-463 (2002), relies on the common-law rule that interest becomes part of the fund to which it accrues. Accordingly, interest becomes part of a bingo savings account and is subject to all requirements and restrictions that apply to funds in a bingo savings account.

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
Kimberly L. Kiplin, General Counsel