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BAO # 2007-1002-0003

December 1, 2006

Detective Shane Denham
White Settlement Police Department
8900 Clifford Street
White Settlement, Texas 76108

Re: Bingo Receipts

Dear Detective Denham:

This advisory opinion responds to your request which was received by the Texas Lottery Commission (Commission) on October 4, 2006. You requested an opinion about whether the Bingo Enabling Act (BEA) (Tex. Occ. Code Ch. 2001) permits a person to use a “plastic card”¹ to purchase bingo products such as bingo paper or daubers.

ANSWER:

All payment for the purchase of bingo paper must comply with relevant provisions of the BEA and Charitable Bingo Administrative Rules (16 TAC Ch. 402) (Rule(s)). Bingo paper is bingo equipment.² Payment for purchase of bingo paper is a transaction covered by Tex. Occ. Code §2001.414(b) which provides, “An organization conducting bingo

¹ In your request, you provide the following explanation of what is meant by a “plastic card:”

“A customer enters the bingo hall and, using a vending type machine, inserts money, and is issued a plastic game card with that amount of cash on the card. The customer then plays any of the electronic machines that are available. As the customer wins or loses, points are added or deducted from their total. At the end of playing, the customer hits a button and the points are transferred back to the plastic game card. The customer can then take this game card to the cashier window and redeems the points for bingo papers or daubers (example \$5 in points earns you \$4 in papers or daubers). The customer receives no change or cash for the points on the card. . . . The customer may also exchange points for snack bar items, again with no change ever being received”

² See Rule 301(a)(2) defining bingo card/paper and Tex. Occ. Code §2001.002(5)(A)(iv) definition of bingo equipment.

must record on a cash register all transactions for which it receives bingo gross receipts” In addition, Tex. Occ. Code §2001.451 pertaining to bingo accounts provides the following:

...

(b) A licensed authorized organization shall deposit in the bingo account all funds derived from the conduct of bingo, less the amount awarded as cash prizes Except as provided by Subsection (b-1), a deposit must be made not later than the next business day after the day of the bingo occasion on which the receipts were obtained.

(b-1) A licensed authorized organization may deposit funds derived from the conduct of bingo that are paid through a debit card transaction in the bingo fund not later than 72 hours after the transaction.

...

Use of a plastic card, other than a debit card, for purchase of bingo paper would not comply with requirements of Tex. Occ. Code §§2001.414(b) and 2001.451 because it would not allow the organization to record on a cash register all transactions for which it receives bingo gross receipts or to deposit funds in the bingo account as required.

The BEA does not regulate a bingo customer’s purchase of bingo daubers³ or snack bar items.

SUMMARY

Use of a plastic card, other than a debit card, for purchase of bingo paper would not comply with requirements of Tex. Occ. Code §§2001.414(b) and 2001.451 because it would not allow the organization to record on a cash register all transactions for which it receives bingo gross receipts or to deposit funds in the bingo account as required. The BEA does not regulate a bingo customer’s purchase of bingo daubers or snack bar items.

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

³ Bingo daubers are not included in the BEA definition of bingo equipment. Tex. Occ. Code §2001.002(5).

as a previous determination regarding any conduct which is not substantially consistent with the opinions and facts stated in the request.

Yours truly,

Philip D. Sanderson, Assistant Director
Charitable Bingo Operations Division

cc: C. Tom Clowe, Jr., Chairman
James A. Cox, Jr., Commissioner
Anthony J. Sadberry, Executive Director
Kimberly L. Kiplin, General Counsel