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TEXAS LOTTERY COMMISSION

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Philip D. Sanderson, *Charitable Bingo Operations Director*

CERTIFIED MAIL NO. 7004 0750 0001 3238 3166
RETURN RECEIPT REQUESTED

January 27, 2011

Susan Leshnower, Member
B'nai B'rith
5 Santa Fe Place
Odessa, TX 79765

Re: Bingo Advisory Opinion Request No. 2011-1117-0003

Dear Ms. Leshnower:

This advisory opinion responds to your request for a bingo advisory opinion received on November 17, 2010. Specifically, you requested:

B'nai B'rith is a 501 (c) 3 in Midland, Texas that holds permits for charitable Bingo. B'nai B'rith would like to allocate funds to Mercy Healthcare Trips, a 501 (c) 3 organization based in Odessa, TX. Doctors and nurses from Medical Center Hospital in Odessa provide their own funding to carry out their projects. However, bingo funds would be used to purchase antibiotics. The doctors and nurses would take the antibiotics to Uganda to a small hospital in an underserved area and use them when they provide surgical treatment to the 50,000 residents of the region. The healthcare trips last for 1-2 weeks once or twice a year.

The question is whether the bingo funds can be used for this purpose since the recipients of the antibiotics reside outside of Texas although the organization and medical personnel reside in Odessa.

ANSWER:

The Texas Constitution requires that all proceeds from bingo be spent in Texas for the charitable purposes of the organization. Tex. Const. art. III, § 47(b)(1). Additionally, a person given bingo proceeds for a charitable purpose may not use the donation "for a purpose that would not constitute a charitable purpose if the activity were conducted by the donor organization." Tex. Occ. Code §2001.455.

Because the Texas Constitution provides all proceeds from bingo games must be spent in Texas for the organization's charitable purposes, bingo funds may be donated for antibiotics if

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purchased in Texas or for travel expenses for doctors and nurses from Medical Center Hospital in Odessa. Although the anticipated recipients of the antibiotics may reside outside of Texas, the organization may donate money to be spent in Texas for their purchase. Any use of bingo funds must be consistent with the licensed authorized organization's charitable purposes.

The licensed authorized organization must maintain records necessary to substantiate (1) that the use of funds is directed to a cause, deed or activity that is consistent with the federal tax exemption of the licensed authorized organization, and (2) that the proceeds are ultimately used for its charitable purposes in Texas. Charitable Bingo Administrative Rule 16 TAC §402.502 describes the type of information a licensed authorized organization must maintain to identify its charitable purpose and to substantiate its charitable distributions. The rule further clarifies the uses of proceeds that would not be considered dedicated to charitable purposes.

SUMMARY

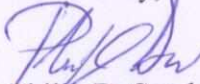
If consistent with the organization's charitable purposes, bingo funds may be donated for antibiotics purchased in Texas or for travel expenses for doctors and nurses from Medical Center Hospital in Odessa, Texas. Although the anticipated ultimate recipients of the antibiotics may reside outside of Texas, the organization may donate money to be spent in Texas for their purchase.

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,



Philip D. Sanderson, Director
Charitable Bingo Operations Division

cc: Mary Ann Williamson, Chairman
J. Winston Krause, Commissioner
Gary Grief, Executive Director
Kimberly L. Kiplin, General Counsel