

**CERTIFIED MAIL NO. 7000 0520 0025 5830 8858
RETURN RECEIPT REQUESTED**

BAO # 2007-0725-0022

September 24, 2007

Ms. Patricia Greenfield
Greenfield Bingo Services
P.O. Box 2065
Weatherford, TX 76086

Re: Bingo Advisory Opinion No. 2007-0725-0022; Charitable Distributions

Dear Ms. Greenfield:

This advisory opinion responds to your request received on July 25, 2007, regarding charitable distributions. Specifically, you requested:

A veterans group wishes to make a charitable donation from their bingo account to another veterans group. One of the federal tax exempt purposes under 26 U.S.C. Section 501 of a veteran's group is to assist its members. Can the group that receives the donation use all or a portion of the money to assist its members?

ANSWER:

Texas Occupations Code § 2001.455 provides:

A person given bingo proceeds for a charitable purpose may not use the donation:

...

(2) for a purpose that would not constitute a charitable purpose if the activity were conducted by the donor organization.

Thus, the question is whether the donor veterans' organization could use its charitable bingo proceeds to assist members of the recipient veteran's organization. If so, the recipient organization may use the donation in the same way.

In regards to disbursement for charitable purposes, Texas Occupations Code § 2001.454 provides:

(a) A licensed authorized organization shall devote to the charitable purposes of the organization its net proceeds of bingo and any rental of premises.

(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. § 501 and under which the organization qualifies as a nonprofit organization as defined by § 2001.002. If the organization is not required to obtain a federal tax exemption under 26 U.S.C. § 501, the organization's net proceeds are dedicated to the charitable purpose 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 § 2001.002.

If the licensed authorized organization can prove that the proceeds are directed to a cause, deed or activity that is consistent with the federal tax exemption the organization obtained under 26 U.S.C. § 501 and the Tex. Occ. Code § 2001.002(19) definition of non-profit organization, then those donations may be recognized as a charitable distribution and therefore an allowable use of funds derived from the conduct of bingo. Under this definition, the organization:

(A) may not distribute any of its income to its members, officers, or governing body, other than as reasonable compensation for services; and

(B) must have obtained tax exempt status under § 501(c), Internal Revenue Code of 1986.

As described in the question presented, the donor veterans' organization's charitable purpose of assisting its members conflicts with the prohibition in § 2001.002(19) limiting a non-profit organization from distributing its income to its members. However, under the facts presented, the donor veterans' organization would not be assisting its own members. If it is within the charitable purpose of the donor veterans' organization to assist veterans who are not members of the donor organization, then the recipient organization may assist its veteran members. In accordance with Tex. Occ. Code § 2001.455, a veterans' group that receives a donation of bingo proceeds may use the funds to assist its members if the activity would constitute a charitable purpose if the activity were conducted by the donor veterans' organization.

SUMMARY

In accordance with Tex. Occ. Code § 2001.455, a veteran's group that receives a donation of bingo proceeds may use the funds to assist its members if the activity would constitute a charitable purpose if the activity were conducted by the donor veteran's 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,

Philip D. Sanderson, Director
Charitable Bingo Operations Division

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