

**CERTIFIED MAIL NO. 7004 1350 0000 5061 8754**  
**RETURN RECEIPT REQUESTED**

BAO # 2007-0727-0023

September 26, 2007

Ms. Lois Redwine, Primary Operator  
BPO Does, Temple Drove 139  
P.O. Box 2595  
Temple, TX 76503

Re: Bingo Advisory Opinion No. 2007-0727-0023; Use of Bingo Funds

Dear Ms. Redwine:

This advisory opinion responds to your request received on July 27, 2007, regarding use of bingo funds. Your questions have to do with bingo funds being used to pay all or partial expenses to attend your organization's District and Grand Lodge meetings. In summary, you ask what percentage of member attendee's registration, transportation and lodging expenses can be paid for with the organization's bingo proceeds. You also ask which members are eligible for bingo funding to attend the Grand Lodge meeting.

Specifically, you submitted the following information and questions:

A district meeting is when all Drove in an area come together to get instruction from the Grand Lodge (national) Supreme President regarding any or our charitable works she cares to address and, most important, to receive instruction on the ritual work we perform through-out the year. Our patriotic rituals are performed at public ceremonies such as Memorial and Flag Day and for the opening and closing of any public meetings we might have, including the ones at District meeting.

These district meetings last three days with the “charitable work and ritual functions” actually only being addressed about one-half the time, about one-four of the time is spent in elections and installation of new district officers, and the rest is spent in social activities. This meeting is held once a year. All droves in Texas and Oklahoma are in our district and this meeting can be held in any of the locations where there is a drove.

All members are asked to attend but we usually only have 8 to 12 who can go. Also, we think you have addressed these issues in earlier advisories: 1) No personal food cost can be paid; 2) mileage at .14 a mile prorated by “charitable formula”; 3) motel expense prorated by “charitable formula”; and 4) registration fee prorated by “charitable formula”.

Our question on District meeting is: What part of this meeting can we count as our charitable formula? Some say one ½ and others say ¾ since electing and installing officers to oversee our operation has to do with everything we do.

A Grand Lodge meeting (national meeting) is also held annually but it includes all the droves in the United States. We are required to send one delegate to this meeting but have several members who are Grand Lodge members that have a right to participate and vote as outlined in our Constitution. There are four “ranks” in our membership that might attend Grand Lodge:

- Our one delegate
- Our Grand Lodge members who have been request by the Grand Lodge Supreme President to come and help with the functions at the various meetings
- Our Grand Lodge members who are attending because they want to
- Drove members who have not attained the level of Grand Lodge member yet wished to attend.

During a Grand Lodge meeting so much goes on but I’m going to try and give you a summary. The convention lasts six days. Day 1, you arrive, you register, and you attend a banquet. Day 2 we hold ritual practices for the rituals that will be done for the rest of the week and a public opening ceremony is held that evening. Day 3 is nothing but workshops dealing with officers duties, benevolent, patriotic, and charitable work which we doing through-out the year. Day 4, 5, and 6 is the official business meeting where reports and awards for the past year are given, and officers are nominated, elected, and installed. Many directives are given by past supreme presidents during their report time which, if applied, should help any drove function better.

We have two questions regarding Grand Lodge. 1) What percentage of these six days would be permissible for Bingo funding to cover transportation and lodging? 2) Of the four groups that might attend Grand Lodge, are all eligible for any Bingo funding? If not, which ones would be?

**ANSWER:**

Texas Occupations Code § 2001.453(a) provides that a licensed organization may withdraw funds from the Bingo Account only for (1) payment of necessary and reasonable expenses incurred and paid in connection with the conduct of bingo, (2) charitable purposes, or (3) deposit into a bingo savings account pending disbursement to a charitable purpose. The issue presented by your questions is whether paying some percentage of members' registration, travel and lodging costs for attending the organization's District and Grand Lodge meetings would qualify as necessary and reasonable expenses incurred and paid in connection with the conduct of bingo or as disbursements for charitable purposes.

Determination of whether paying convention registration, lodging, and travel costs is an allowable expenditure of funds depends on evaluation of specific facts relating to the expenditures. Tex. Occ. Code § 2001.453 provides that an organization may draw a check on its bingo account only for necessary and reasonable expenses paid in connection with the conduct of bingo. A licensed authorized organization is required to maintain records to substantiate payments as necessary and/or reasonable expenses. The expenditures described in your request are not related to the conduct of bingo and therefore would not qualify as a permissible bingo expenses.

In regard 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.

A licensed authorized organization may claim a charitable distribution if money derived from the net proceeds of bingo is directed to a cause, deed or activity that is consistent with the federal tax exemption of the licensed authorized organization and under which the licensed authorized organization qualifies as a nonprofit organization as defined by Texas Occupations Code § 2001.002(19).<sup>1</sup> 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.

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. 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. Rule § 402.502 addresses record keeping for travel expenses as follows:

(f) Reimbursement or direct payment for member or employee travel expenses. Reimbursement or direct payment for member or employee travel expenses will only be considered a cause, deed, or activity dedicated to the charitable purposes and consistent with the 26 U.S.C. Section 501 tax exemption of the organization or the purposes or objective for which the organization qualifies as an authorized organization if the following records are provided to the commission upon request:

(1) the itinerary of the seminar, convention, or retreat showing that the purpose of the seminar, convention, or retreat was primarily to discuss the charitable functions and purposes consistent with the 26 U.S.C. § 501 tax exemption of the organization or the purposes or objective for which the organization qualifies as an authorized organization; and

(2) the original receipts and cancelled checks, or true and correct copies of the same, showing the date and amount of the contribution for actual out-of-pocket reasonable and necessary expenses such as hotel, airline tickets, meals, etc. and the corresponding request for payment or reimbursement maintained by the organization.

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<sup>1</sup> § 2001.002(19) defines “nonprofit organization” to mean “an unincorporated association” or “a corporation that is incorporated or holds a certificate of authority under the Texas Non-profit Corporation Act.” The provisions of that act have been recodified in the Texas Business Organization Code.

If the organization can prove that the meeting expenses associated with non-bingo activities are reasonable and 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 definition of non-profit organization, then those costs may be recognized as a charitable distribution and therefore an allowable use of funds derived from the conduct of bingo. The organization should maintain records to demonstrate the reasonableness of the expenses. The reasonableness of the number of members' meeting expenses paid for depends on specific facts and circumstances pertaining to convention activities and costs.

Based on the information provided that the district meeting addresses "charitable work and ritual functions" about one-half the time and about one-fourth of the time is spent in election and installation of new district officers, approximately three-fourths of the meeting registration, travel and lodging expenses may be recognized as a charitable distribution and therefore a permissible use of funds derived from the conduct of bingo.

Based on the description of activities at the national Grand Lodge meeting, 100 percent of the registration, transportation and lodging expenses for the six days of meetings would be recognized as a charitable distribution and therefore a permissible use of funds derived from the conduct of bingo. Travel and lodging expenses to attend the national meeting may be recognized as a charitable distribution for the one delegate required to attend, any Grand Lodge members who have been requested by the Grand Lodge Supreme President to attend, and any Grand Lodge members who are attending because they want to.

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## SUMMARY

Based on the information provided, Temple Drove 139 may make a charitable distribution of bingo proceeds to pay for approximately 75 percent of the registration, travel, and lodging expenses to attend the three-day district meeting and 100 percent of the registration, travel and lodging expenses to attend the six-day national meeting. However, Temple Drove 139 may pay these expenses to attend the national meeting for only those members who have attained the level of Grand Lodge member.

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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,

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