

**BG 14-01**

**Tax Type: Bingo License & Tax Act**

**Tax Issue: Revocation of Bingo License**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS**

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<b>THE DEPARTMENT OF REVENUE</b>	)	Docket No.	XXXX
<b>OF THE STATE OF ILLINOIS</b>	)	Bingo No.	XXXX
v.	)	Pull Tab No.	XXXX
<b>ABC BUSINESS,</b>	)	John E. White,	
Taxpayer	)	Administrative Law Judge	

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**RECOMMENDATION FOR DISPOSITION**

**Appearances:** Jack Doe and Mary Black, appeared, *pro se*, for ABC BUSINESS; Paula Hunter, Special Assistant Attorney General, appeared for the Illinois Department of Revenue.

**Synopsis:**

This matter arose when ABC BUSINESS (ABC Business or Licensee) protested the Notice of Revocation (Notice) the Illinois Department of Revenue (Department) issued to it following an investigation by the Department's Bureau of Criminal Investigation (BCI). The Notice revoked ABC Business' Bingo license after the Department determined that ABC Business violated two regulations the Department adopted to administer and enforce provisions of the Illinois Bingo License and Tax Act (BLTA).

The hearing was held at the Department's Office of Administrative Hearings in Chicago. Taxpayer offered the testimony of two witnesses, Jack Doe and Mary Black. After considering the evidence admitted at hearing, I am including in this recommendation findings of fact and conclusions of law. I recommend that ABC Business' license be revoked, as set forth in the Notice.

**Findings of Fact:**

1. On October 1, 2010, the Department issued bingo license number XXX to ABC Business. Department Ex. 3 (copy of license). ABC Business' license expired on September 30, 2011. *Id.* ABC Business' license permitted it to conduct bingo games on Wednesday nights from 7 to 11 p.m., at a location in Anywhere, Illinois. *Id.*
2. On November 8, 2010, BCI agents Kaplan and Rossi conducted an investigation of games being conducted at the XYZ Business, in Happy, Illinois. Department Ex. 2 (copy of BCI investigative summary report, dated December 9, 2010, with attachments), pp. 1-4 (hereafter, BCI Report); Hearing Transcript (Tr.), pp. 8-19 (testimony of BCI agent Edward Filippini).
3. The agents conducted their investigation after being notified about two advertisements in a publication titled, DEF Articles, the latter reflecting that ABC Business would be conducting games at the XYZ Business on November 8, 2010. Department Ex. 2, p. 2. The first ad described the games as bingo and the second described the games as being a raffle. *Id.*
4. Following this notice, the agents reviewed Department records and noted that the bingo license issued to ABC Business granted it permission to conduct bingo games, and sell pull tabs, at a location in Anywhere, Illinois, on Wednesday nights. Department Ex. 2, p. 2.
5. November 8, 2010 was a Monday. Tr. p. 12 (upon request, official notice taken that November 8, 2010 fell on a Monday); People v. Barham, 337 Ill. App. 3d 1121, 1129, 788 N.E.2d 297, 303-04 (5<sup>th</sup> Dist. 2003).

6. While at the XYZ Business on November 8, 2010, the BCI agents interviewed individuals, including Gene Green (Gene Green), Rick Red (Rick Red), and Stu Blue (Stu Blue). Department Ex. 2, pp. 2-3. Agent Kaplan reported the substance of the interviews with those individuals in the BCI Report. *Id.*
7. The BCI agents observed Gene Green running the games being played at the XYZ Business on November 8, 2010. Department Ex. 2, p. 2.
8. During the interview, the agents asked Gene Green to show them the license required to be displayed whenever games are being played. Department Ex. 2, p. 2; *see also* 230 ILCS 25/1.3(3) (“The licensee shall prominently display the license in the area where the licensee conducts bingo.”).
9. Gene Green showed the agents a copy of a Village of Happy Raffle License, issued in ABC Business’s name, for raffles to be conducted at the XYZ Business on November 8, 2010. *Id.*
10. Gene Green considered the game being played at the XYZ Business on November 8, 2010 as a raffle, not bingo. Department Ex. 2, p. 2.
11. Gene Green gave the BCI agents a list of individuals who were present at the XYZ Business that night, helping to conduct the games. Department Ex. 2, pp. 3, 5-6. Agent Kaplan attached a copy of that list as an exhibit to the BCI Report. *Id.*, pp. 5-6.
12. Rick Red identified himself as the president of LMN Business, Inc. Department Ex. 2, p. 3. Rick Red was present at the XYZ Business on November 8, 2010 to rent what he called bingo machines to interested attendees. *Id.* Rick Red described the way attendees paid for the bingo machines, and the amount ABC Business was to pay LMN Business for each machine rented. *Id.* He explained that, at the end of the night,

he gave Gene Green a written receipt of the amount of machines rented, and Gene Green paid him with an ABC Business' check. *Id.*

13. Stu Blue identified himself to the BCI agents as the facility director of the XYZ Business. Department Ex. 2, p. 3.

14. Stu Blue gave the BCI agents a copy of a document called titled, XYZ Business License Agreement No 4015[.]” (License) Department Ex. 2, pp. 7-10. Agent Kaplan attached a copy of that License as an exhibit to the BCI Report. *Id.*

15. Stu Blue signed the License for XYZ Business, as the licensor, and Gene Green signed next to the designation “Licensee: Gene Green f/s/o Not For Profit Group[.]” Department Ex. 2, p. 10. Below Gene Green’s signature, next to the word, “Title:[.]” the hand-written word, “manager[.]” is printed. *Id.*

16. The BCI agents made the following determination in the BCI Report, among others:

- the game being played at the XYZ Business on November 8, 2010, called raffle, was the same as bingo
- Gene Green purchased supplies, paid for machine rentals and paid the rent for the XYZ Business, all using ABC Business’ name
- no one from ABC Business was present at the XYZ Business on November 8, 2010.

Department Ex. 2, pp. 3-4; *see also* 230 ILCS 15/1 (“raffle” defined under the Raffles Act); 230 ILCS 25/1.1 (bingo defined under the BLTA).

17. On December 1, 2010, the Department received, via facsimile, a letter which provided:

December 1, 2010

To the Department of Bingo & Charitable Games;

We the ABC Business wish to move our bingo and pull tab license to the XYZ Business located at ... on Monday nights between the hours of 5 pm to 10 pm starting in December 2010. Our last day at the Big Building was Dec. 25 – 2010

If there are any questions our Bing[o] manager is Gene Green and he can be contacted at

708-917-2996

Thank you

ABC BUSINESS Organization President

[signature in name of Jack Doe]

Department Ex. 4.

### **Conclusions of Law:**

The BLTA is one of the acts pursuant to which the Illinois General Assembly has granted Illinois charitable and other specified organizations the opportunity to raise funds by conducting games that would otherwise be considered gambling. *See* 230 ILCS 15/1 *et seq.* (Raffles Act); 230 ILCS 20/1 *et seq.* (Pull Tabs and Jar Games Act); 230 ILCS 25/1 *et seq.* (BLTA); 230 ILCS 30/1 *et seq.* (Charitable Games Act). Generally, the statutory scheme under each act includes, among other things, licensing and strictly regulating the persons conducting, managing and providing supplies for games, and those providing a place to hold games, and taxing the winnings. This dispute involves the Department's determination to revoke ABC Business' regular bingo license, and to deny its application for renewal of its pull tabs license, based on the Department's determination that ABC Business violated two regulations designed to strictly regulate how games shall be conducted. Department Ex. 1.

Different sections of the BLTA apply to this dispute, the first being § 1.1, which provides definitions of terms used in the Act. That section defines a regular license as follows:

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"Regular license" means a license authorizing its holder to conduct one session of bingo per week on the date and at the time and location stated on the license.

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230 ILCS 25/1.1. Next, § 2 of the BLTA provides, in pertinent part:

Sec. 2. The conducting of bingo is subject to the following restrictions:

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2.5) No person except a bona fide member or employee of the sponsoring organization may participate in the management or operation of bingo.

230 ILCS 25/2. Finally, § 4 of the BLTA provides:

Sec. 4. \*\*\*

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The Department of Revenue may, at its discretion, suspend or revoke any license if it finds that the licensee or any person connected therewith has violated or is violating the provisions of this Act. A suspension or revocation shall be in addition to, and not in lieu of, any other civil penalties or assessments that are authorized by this Act. No licensee under this Act, while a bingo game is being conducted, shall knowingly permit entry into any part of the licensed premises by any person who has been convicted of a felony or a violation of Article 28 of the Criminal Code of 1961 or the Criminal Code of 2012.

230 ILCS 25/4.

The Department has adopted regulations pursuant to the authority granted to it in § 5.1 the BLTA. 230 ILCS 25/5.1. The Notice informs ABC Business that the Department determined that ABC Business violated two such regulations adopted by the Department. Department Ex. 1. The first, § 430.110, provides, in pertinent part:

Section 430.110 Regular Licenses

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e) A regular license authorizes the licensee to conduct bingo only at the location, on the day, and during the time period stated on the license. If a licensee wishes to change the location, day or time of its bingo, it may do so by requesting, in writing, an amended license. \*\*\* An officer of the licensee must notify the Department by telephone of the new date and time, as well as the reason for rescheduling, in advance of the rescheduled game. The same officer must then verify this information in a letter to the Department.

86 Ill. Admin. Code § 430.110(e) (2002).

The next, § 430.160, provides, in pertinent part:

Section 430.160 Restrictions and Limitations on the Conducting of Bingo

The following restrictions and limitations on the conducting of bingo apply to any bingo session conducted by any licensed organization.

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d) Management and Operation of Bingo

1) For periods through August 8, 2001, only a bona fide member of the licensed organization or a bona fide member of an auxiliary organization (substantially all of whose members are spouses of members of the sponsoring organization) may participate in the management or operation of the bingo session, either as an operator or a worker. Participation in the management or operation of the bingo session includes selling cards, calling numbers, confirming and paying winners, and handling or counting the proceeds from the sale of cards while the session is in progress.

A) Operators are the persons directly responsible for managing the game and who have signed the application for license or amended statement thereto. No bingo session may be conducted unless an operator is present.

B) Workers are any persons participating in the operation of a bingo session. Their names must appear on the list of workers, or any amendments thereto, accompanying the organization's application, as provided in Section 430.110(b)(1)(B) and (b)(2)(B) and Section 430.120(b).

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86 Ill. Admin. Code § 430.160 (2002).

The evidence supports the Department's determination that ABC Business violated §§ 430.110 and 430.160 of the BLTA regulations. First, the face of the license issued to ABC Business shows that ABC Business was permitted to conduct bingo on Wednesday nights at location that was other than at the XYZ Business, where BCI agents observed bingo games being played, and where ABC Business was named as the licensed operator. Department Exs. 2-3; Tr. p. 31 (Jack Doe); 86 Ill. Admin. Code § 430.110. Second, BCI agents determined that no bona fide member of ABC Business was

physically present at the XYZ Business, at the time games were being conducted under ABC Business' name. Department Ex. 2, pp. 1-4; 86 Ill. Admin. Code § 430.160(d). That is, the agents determined that neither Gene Green, nor any of the persons named on the list Gene Green provided to the BCI agents on November 8, 2010, were bona fide members of ABC Business, whose names appeared on the list of workers, or any amendments thereto, accompanying the organization's application. 86 Ill. Admin. Code § 430.160(d). If the Department's determinations on these points were incorrect, ABC Business was in the best position to prove otherwise.

Throughout the statuses held prior to hearing, the concern was always whether ABC Business was a dupe or a misfeasor. That is, did someone steal ABC Business' name and licensing information, and use it to conduct gambling, or did ABC Business commit knowing or unknowing violations of the BLTA and applicable rules, by letting others conduct and/or manage games the Department permitted ABC Business to conduct. At one point during hearing, Jack Doe testified that he never applied to conduct games at the XYZ Business, and that the signature on the letter that is part of Department Exhibit 4 was not his. Tr. pp. 26, 34 (Jack Doe). Shortly thereafter, however, Jack Doe said that the signature on the letter was his, or looked like his. Tr. pp. 39-40 (Jack Doe).

Department Exhibit 4 supports the Department's determination that ABC Business violated the bingo rules identified in the Notice. Department Exhibit 4 includes a letter, signed by ABC Business' president, Jack Doe, notifying the Department, among other things, that Gene Green was ABC Business' "bing[o] manager," who could be contacted regarding ABC Business' written request to move the location of its bingo games, and to change the night on which it could conduct games. Department Ex. 4, p. 2.



Even if that writing does not act as ABC Business' ratification that Gene Green was present and acting as ABC Business' representative at the XYZ Business on November 8, 2010, it is a written statement, by ABC Business, that Gene Green was ABC Business' bingo manager regarding games to be conducted on Monday nights at the XYZ Business. *Id.* In short, Department Exhibit 4 constitutes an admission that Gene Green was ABC Business' bingo manager. In re Hilly County Treasurer, 166 Ill. App. 3d 373, 379, 519 N.E.2d 1010, 1014 (1<sup>st</sup> Dist. 1988) *aff'd* 131 Ill. 2d 541 (1989) ("Generally, any statement made by a party or on his behalf which is inconsistent with his position in litigation may be introduced into evidence against him."). But Gene Green could only act as ABC Business' bingo manager if he was a bona fide member or employee of ABC Business. 230 ILCS 25/2.5; 86 Ill. Admin. Code § 430.160(d). The Department determined he was not (Department Ex. 2), and ABC Business did not offer any evidence to the contrary.

Further, Department Exhibit 4 documents that ABC Business intended to change the location where it conducted games to the location where BCI agents observed Gene Green conducting games, under ABC Business' apparent authority. Department Exs. 2, 4. These documents show that Gene Green changed the location where ABC Business actually conducted games, before the date ABC Business asked the Department for permission to do so. *Id.* The evidence supports the Department's determination that ABC Business conducted games on a day and at a location other than as permitted by its license. Department Exs. 1-2, 4; 86 Ill. Admin. Code § 430.110(e).

**Conclusion:**

For the foregoing reasons, I recommend the Director finalize its prior determination to revoke ABC Business' Bingo License, and to deny its renewal application for a pull tabs license.

May 28, 2014

John E. White  
Administrative Law Judge

