

# VFW OHIO CHARITIES SCHOOL OF INSTRUCTION CHARITABLE GAMING AND GIVING OVERVIEW

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FLANNERY  

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LLC

Presented by:



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Major, U.S. Army JAG Corps

Active Duty 2010-2017

Army Reserve 2017-present

Veteran of OEF (Afghanistan)

The views expressed in this presentation are those of the presenter and do not represent those of the United States Army.



## Ohio Attorney General's Office

Assistant Chief, Charitable Law Section  
2019-2022

Responsible for supervising all  
investigations, litigation, bingo, and  
registration matters

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# CHARITY VS. NON-PROFIT

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## CHARITY

VFWOC is a charity

**SO**

Can only spend charitable funds  
to benefit the public  
IRC 501(c)(3)

## VETERAN NON-PROFIT

VFW Dept. and Posts are non-  
profit organizations

**SO**

Can spend funds to benefit  
members  
IRC 501(c)(19)

# CHARITY—IRC 501(C)(3)

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- Tax Exempt
- Must be organized and operated exclusively for charitable, religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition, and preventing cruelty to children or animals.
- No part of the net earnings may *inure to any private shareholder or individual*

# VETERAN NON-PROFIT—IRC 501(C)(19)

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- Tax Exempt
- Past or present members of U.S. Armed Forces, or related auxiliary unit or society, trust or foundation
- At least 75% of members past or present members of Armed Forces
  - Additional 22.5% can include cadets, spouses, widows, etc.
- Must be operated exclusively purposes of promoting social welfare, assist disabled and needy veterans, charitable purposes, patriotic activities, social and recreational activities for members
- No part of the net earnings may *inure to any private shareholder or individual*

# PRIVATE BENEFIT/INUREMENT

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- Both 501(c)(3) and (c)(19) cannot have private benefit
- A “private benefit” occurs when an individual receives a benefit, whether monetary or non-monetary, from the organization that is either not available, or not available on the same terms, to the public or subset of the public generally.
- A charities’ expenditures may provide an individual benefit if that benefit is “incidental” to the charitable purpose.



# CHARITABLE FUNDS

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Veteran Non-profits can receive funds to be used for charitable purposes

***BUT***

The source of those funds cannot be revenue from instant bingo or electronic instant bingo

*See O.R.C. 2915.101(A)(1)(a)(i)*

# OHIO CHARITABLE GAMING LAW



# OHIO CHARITABLE GAMING LAW

## Ohio Revised Code Section 2915.13 | Veteran's organization or fraternal organization authorized to conduct bingo session.

- Vet/Frat organizations authorized to conduct electronic instant bingo if:
  - Sales limited to 12 hours/day between 10am and 2am
  - Own premises and members/guests
  - *Raising money for an organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that maintains its principal place of business in this state, that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, and that is in good standing in this state and executes a written contract with that organization as required in division (B) of this section.*

# OHIO CHARITABLE GAMING LAW

## Ohio Revised Code Section 2915.13 | Veteran's organization or fraternal organization authorized to conduct bingo session.

- Veteran/Fraternal organizations ***shall***
- **Execute a written contract with the organization** that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that maintains its principal place of business in this state, that is exempt from federal income taxation under subsection 501(a) and **described in subsection 501(c)(3) of the Internal Revenue Code**, and that is in good standing in this state in order to conduct instant bingo or electronic instant bingo.

# OHIO CHARITABLE GAMING LAW

## Ohio Revised Code Section 2915.101 | Distributing net profit from proceeds of sale of instant bingo.

(A)(1) If a veteran's/fraternal organization conducted the instant bingo or electronic instant bingo, the organization **shall distribute the net profit from the proceeds of the sale of instant bingo or electronic instant bingo**, as follows:

(a) For the first \$330,000...or less\*

(i) At least 25% shall be distributed to an organization described in division (V)(1) of section 2915.01 of the Revised Code or to a department or agency of the federal government, the state, or any political subdivision.

(ii) Not more than 75% may be deducted and retained by the the organization for reimbursement of or for the organization's expenses, as defined in division (GG) of section 2915.01 of the Revised Code, in conducting the instant bingo or electronic instant bingo game.

\* OAC 109:1-4-21

# OHIO CHARITABLE GAMING LAW

## Ohio Revised Code Section 2915.101 | Distributing net profit from proceeds of sale of instant bingo.

(C) Nothing in this section prohibits a veteran's organization, a fraternal organization, or a sporting organization from distributing any net profit from the proceeds of the sale of instant bingo or electronic instant bingo to an organization that is described in subsection 501(c)(3) of the Internal Revenue Code when the organization that is described in subsection 501(c)(3) of the Internal Revenue Code is one that makes donations to other organizations and permits donors to advise or direct such donations so long as the donations comply with requirements established in or pursuant to subsection 501(c)(3) of the Internal Revenue Code.



# OHIO CHARITABLE GAMING LAW

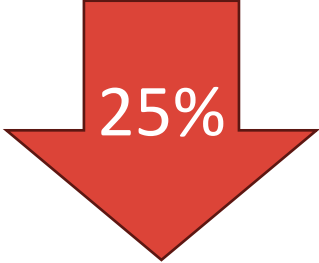
## Ohio Revised Code Section 2915.01 | Gambling definitions.

(V) "Charitable purpose" means that the net profit of bingo, other than instant bingo or electronic instant bingo, is used by, or is given, donated, or otherwise transferred to, any of the following:

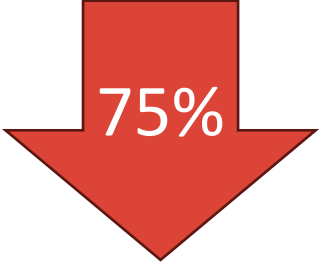
(1) Any organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or **an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;**

**(2) A veteran's organization that is a post, chapter, or organization of veterans,** or an auxiliary unit or society of, or a trust or foundation for, any such post, chapter, or organization organized in the United States or any of its possessions, at least seventy-five per cent of the members of which are veterans and substantially all of the other members of which are individuals who are spouses, widows, or widowers of veterans, or such individuals, provided that no part of the net earnings of such post, chapter, or organization inures to the benefit of any private shareholder or individual, and further provided that the net profit is used by the post, chapter, or organization for the charitable purposes set forth in division (B)(12) of section 5739.02 of the Revised Code, is used for awarding scholarships to or for attendance at an institution mentioned in division (B)(12) of section 5739.02 of the Revised Code, is donated to a governmental agency, or is used for nonprofit youth activities, the purchase of United States or Ohio flags that are donated to schools, youth groups, or other bona fide nonprofit organizations, promotion of patriotism, or disaster relief;

VFW Post's Net Instant Bingo Earnings



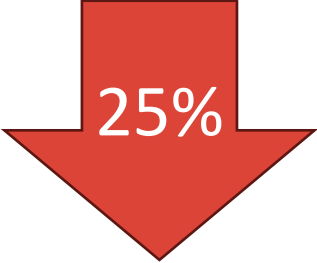
Funds to donate



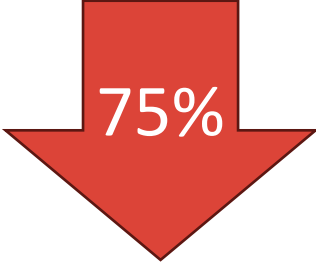
Funds to keep



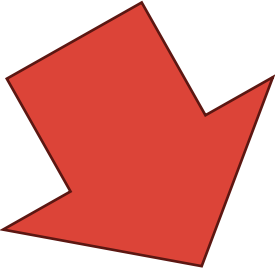
VFW Post's Net Instant Bingo Earnings



Funds to donate



Funds to keep



Can be spent on member-only benefits  
(i.e., dinners, events, activities, etc.)  
**must be limited to members**

VFW Post's Net Instant Bingo Earnings

25%

Funds to donate

Any organization with a "charitable purpose" R.C. 2915.01(V)(1)

**Cannot be donated to 501(c)(19) organizations or Posts or anything else under R.C.2915.01(V)(2)**

75%

Funds to keep

Can be spent on member-only benefits (i.e., dinners, events, operations, etc.)

**must be limited to members**

# POST CONTROL OVER “FUNDS TO DONATE”

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VFW posts can direct how the charitable funds from instant bingo are used...

***BUT***

The money still **MUST** be used to *benefit the public* or serve a charitable purpose

# EXAMPLES OF POST DIRECTIONS OF CHARITABLE FUNDS

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## PERMISSIBLE

Directing the organization to use the donated funds to pay for Honor Guard expenses (uniforms, flags for families of deceased, mileage to/from events, etc.)

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Funds donated to Honor Guard are returned to Post's General Fund

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## *IMPERMISSIBLE*

Funds donated to VFW Department Scholarship Accounts

# EXAMPLES OF POST DIRECTIONS OF CHARITABLE FUNDS

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## PERMISSIBLE

Directing the organization to use the donated funds to pay an *outside company* to cater attendees' meals at a Service Branch's Birthday Ball

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## ***IMPERMISSIBLE***

Organization uses funds to pay Post Canteen to cater meals at the event



# EXAMPLES OF POST DIRECTIONS OF CHARITABLE FUNDS

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## PERMISSIBLE

Directing the organization to use the donated funds to pay for any Veteran's housing fees if they're in financial distress

## *IMPERMISSIBLE*

Directing the organization to pay for *only* members' housing fees

~ NOTE ~ there can be an individual benefit ONLY IF it is an *incidental benefit*

# VFWOC USE OF CHARITY FUNDS

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## ADVERTISEMENTS

- Must say “VFW Ohio Charities Agent” somewhere in ad
- Cannot use charity funds to advertise for-profit events

## OTHER PURCHASES

- Cannot use charity funds to buy alcohol
- Cannot use charity funds to pay for members-only benefits (Post picnics, member dinners, etc.)
- Cannot use charity funds for rentals, speaker fees, entertainment

# HOW TO DETERMINE IF THE USE OF FUNDS IS LEGAL?

## A SERIES OF QUESTIONS TO ASK

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What is one of the charitable purposes of the organization?  
(reduce poverty, keep public spaces clean, create enrichment programs for disadvantaged youth, etc.)

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I want to help an individual... what options do I have?

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If **YES**: is this individual benefit available *only* to members of the Post? Or to a larger portion of the public?



If **NO**: this is an impermissible donation

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If **NO**: this is an impermissible donation



If only members: this is an impermissible donation

If available to all: this is a permissible donation!



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Are the funds being used to pay another account?

(including scholarship accounts, credit/debit accounts, retainers for professionals, political campaigns, etc.)

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If **NO**: is the Post gaining any benefit from payment of these funds?

(including priority parking, use of funds to buy things for Post members, return of funds to Post's General Fund, etc.)

If **YES**: this is an impermissible donation

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# DON'T LET THIS HAPPEN TO YOUR POST

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- March 26, 2024 – VFW Post 4044
  - Quartermaster, Guy Andonian is indicted on 4 felony counts relating to **THEFT**
  - He is alleged to have:
    - Put *vague* notes in the memo lines of checks
    - Had friends cash them
    - Had friends send the money back to him

# DON'T LET THIS HAPPEN TO YOUR POST

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- 2024 – VFW Post 927
  - Former Treasurer, Frank McVicker charged
    - Used bank card to withdraw **\$12,000+** from various ATMs
- 2023 – VFW Post 1192
  - Former Commander, Michael Colley indicted
    - Withdrew **\$40,000+** in funds from Post at various casinos
    - Post had to sell building – couldn't make up lost funds
    - **FACES 20 YEARS IN FEDERAL PRISON AND \$250,000 FINE**
- 2020 – VFW Post 2629
  - Former Quartermaster, Dan Molnar sentenced
    - Used renovation as cover to kite checks
    - Nearly bankrupted Post (400+ members) & required Post to re-mortgage
    - **SENTENCED TO MAXIMUM PRISON TIME AND \$500,000+ FINE AND IS A CONVICTED FELON**



Michael Colley



Daniel Molnar

# DON'T LET THIS HAPPEN TO YOUR POST

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- 2019 – VFW Post 6070

- Canteen Manager, Karen Lentz sentenced

- Misreported profits from gambling machines
    - Claimed to be unfamiliar with VFW policies
    - Kept inadequate records of money transfers
    - Post had to do restructuring to verify compliance
    - **SENTENCED TO 5 YEARS PROBATION, FINES, AND \$433,000 RESTITUTION**

- 2012 – VFW Post 7051

- Former Bookkeeper, Becky Heald sentenced

- Wrote & cashed checks to fake vendors totaling over \$200,000+
    - Post near brink of closing – could not fund community grants
    - **ORDERED TO PAY BACK \$200,000+, SENTENCED TO 1 YEAR IN COUNTY WORKHOUSE & 5 YEARS PROBATION, AND REQUIRED TO GET HELP FOR GAMBLING ADDICTION**



Becky Heald

# OTHER POSSIBLE CONSEQUENCES

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- Loss of liquor license
- Loss of bingo license
- Loss of tax-exempt status
- Personal liability
- Removed from VFW positions

# AVOIDING SCRUTINY AND TROUBLE

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- Keep very accurate and detailed records
- Be specific in memo lines of checks
- Ask questions if you have any doubts (highly encouraged)
- Err on the side of caution – take the least risks possible

## REMEMBER:

Insufficient record-keeping *will not* erase liability



# QUESTIONS?

