

December 10, 2018

Colleen Wilt
Events Manager
Miller Symphony Hall

VIA E-MAIL

Re: Licensee with Sales Tax Exemption

Dear Ms. Wilt:

ISSUE: This is in response to your e-mail dated October 29, 2018, wherein you advise that you are the Events Manager of Miller Symphony Hall in Allentown, Pennsylvania. You advise that you hold a performing arts facility license for the location and a wholesale liquor purchase permit, which allows for a 10% discount on purchases at the Pennsylvania Liquor Control Board's ("PLCB") Fine Wine and Good Spirits ("FW&GS") stores.

You further note that the licensed entity is also a non-profit organization that is exempt from state and local sales tax. You have been advised that you may take the 10% licensee discount in combination with the sales tax exemption. You ask for clarification of this advice.

Records of the PLCB indicate that the Allentown Symphony Association, Inc., holds Performing Arts Facility Liquor License No. PAF-33 (LID 39984) for the location at 23 North Sixth Street in Allentown.

OPINION: Pursuant to section 305(b) of the Liquor Code, certain types of licensees are entitled to purchase liquor at wholesale from PLCB FW&GS stores. 47 P.S. § 3-305(b). This includes restaurant licensees, of which a performing arts facility license is a subset. A wholesale liquor purchase permit is issued to qualified licensees. On presentation by the permit holder or its authorized agent at a PLCB FW&GS store, the Wholesale Liquor Purchase Permit Card will allow the purchase of liquors at the wholesale prices established by the PLCB. The card shall be presented each time a purchase is to be made at wholesale. 40 Pa. Code § 11.9.

Purchases must total at least \$50.00 to qualify for the discount, which is currently 10%. 40 Pa. Code § 11.5.

Section 32.21 of the Revenue Code 61 Pa. Code § 32.21 provides that a tax-exempt organization that is licensed by the PLCB **must pay sales tax on the purchase of alcohol**. Therefore, in response to your first question, although an eligible retail PLCB licensee may use its Wholesale Liquor Purchase Permit Card when purchasing alcohol at the PLCB's FW&GS stores, it would **not** be able to use its Pennsylvania Tax Exemption Certificate to purchase alcohol on a tax-free basis at the PLCB's FW&GS stores.

Should you have any other questions and/or issues related to the Liquor Code or the PLCB's Regulations, please feel free to once again contact this office.

THIS OPINION APPLIES ONLY TO THE FACTUAL SITUATION DESCRIBED HEREIN AND DOES NOT INSULATE THE LICENSEE OR OTHERS FROM CONSEQUENCES OF CONDUCT OCCURRING PRIOR TO ITS ISSUANCE. THE PROPRIETY OF THE PROPOSED CONDUCT HAS BEEN ADDRESSED ONLY UNDER THE LIQUOR CODE AND REGULATIONS. THE LAWS AND POLICIES ON WHICH THIS OPINION IS BASED ARE SUBJECT TO CHANGE BY THE LEGISLATURE OR THE PENNSYLVANIA LIQUOR CONTROL BOARD.

Sincerely,



RODRIGO J. DIAZ
CHIEF COUNSEL

cc: Pennsylvania State Police, Bureau of Liquor Control Enforcement
Tisha Albert, Director of Office of Regulatory Affairs
B.L. Peifer, Director, Bureau of Licensing

LCB Advisory Opinion No. 18-434