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# MANAGEMENT COMPANY PENDING SALE OF LICENSED BUSINESS

BY ED TARASKUS

I am selling my restaurant and the buyer would like to enter into a management agreement to operate my restaurant while the buyer's PLCB transfer application is being processed. The buyer would receive the profits after my expenses. Can this be done?

Yes. The liquor code currently legally permits management companies to have a financial interest in the licensee's licensed business. A licensee can engage a management company to operate, manage, or supervise all or just a part of the licensed business.

The use of a management company by a licensee often occurs with hotels or where the licensee and a buyer enter into an agreement of sale for the business and the buyer wishes to assume control over the licensed business while the buyer's license transfer application is being processed.

You, as the licensee, will enter into a management agreement with the buyer, which sets forth the terms and conditions for the management of the licensed business. The management company (or buyer) becomes an employee of the licensee by the use of the management agreement.

The licensee, however, should at all times be in ultimate control of the licensed business operation and should supervise all activities and the management company since the engagement of the management company does not affect the licensee's responsibility to comply with the Pennsylvania Liquor Code and the regulations of the PLCB.

Once that agreement has been completed and signed, you must complete and file online with the PLCB an application for use of management company, along with a copy of the signed and dated management agreement, and with the required filing fees.

The PLCB's legal department will review the management agreement and will advise the licensee as to whether or not it is legally acceptable in accordance with the liquor code and the regulations of the PLCB. The management agreement may have to be amended if the PLCB determines that certain provisions are in violation of the law.

You as the licensee have to be certain the business taxes are reported and paid. You should have adequate insurance coverage. You must be notified of any citations or violations that may be brought against your liquor license or incidents involving any accidents.

Obviously you should consult with your attorney regarding the drafting of the management agreement and the reporting of application for use of management company to the PLCB. ■

Edward Taraskus is in private practice in Philadelphia concentrating in the area of representation of liquor licensees. He previously served as an Assistant Attorney General in the Pennsylvania Justice Department representing the Pennsylvania Liquor Control Board. Along with his legal column for The Observer he frequently presents educational lectures to both industry members and attorney practitioners. He received his B.A. from LaSalle University and his J.D. from Temple University School of Law. He is a member of the Administrative Law and Regulatory Practice Section of the American Bar Association as well as a member of the Administrative Law Section of the Pennsylvania Bar Association and the Philadelphia Bar Association. Ed can be contacted at [www.paliquorlaw.com](http://www.paliquorlaw.com).