ACQUISITION STRATEGIES

The Licenses and Permits That Don’t Come With the Business

By Ari Tuchman | Tuchman Law, APC | Los Angeles, CA

A buyer closes on a restaurant on Friday and gets the keys. On Saturday, the bar can’t legally pour a drink. The liquor license was never the seller’s to hand over. It belonged to the seller, and the buyer needed the State’s approval to take it over.

That’s the mechanic buyers miss. Licenses and permits are issued to a specific person or entity, not to the business. When ownership changes, many of them don’t transfer automatically. Some require a new application, some require regulatory approval, and a few can’t be transferred at all.

Asset Sales vs. Stock Sales

In an asset sale, the buyer is a new legal entity, so it generally needs its own licenses. In a stock sale, the licenses stay with the company, which is often a reason buyers choose that structure. But many regulators treat a change in who owns or controls the licensee as a transfer anyway. The structure of the deal changes the paperwork, not whether the regulator gets a say.

Liquor Licenses

A California liquor license transfer needs the Department of Alcoholic Beverage Control’s approval. Under Business and Professions Code § 24074, the full purchase price must go into escrow, and the seller’s creditors who file claims are paid from it before the seller is. The application is posted for 30 days, and ABC says a person-to-person transfer averages about 75 days. A temporary retail permit may let the buyer operate in the meantime.

A stock sale doesn’t avoid this. A corporate licensee must report anyone acquiring 10% or more of its stock within 30 days, and a change of 50% or more requires a formal license transfer.

Contractor Licenses

The Contractors State License Board doesn’t let a sole owner’s license be sold with the business, and changing a partnership’s structure cancels its license. A corporate license survives a stock sale, but it depends on its qualifying individual. If that person leaves after the sale, the company has 90 days to replace them or the license is suspended.

Healthcare

A buyer of a licensed health facility generally has to apply for a new license through a change-of-ownership process with the California Department of Public Health, and update Medicare and Medi-Cal enrollment. Larger deals have an extra step: health care entities meeting the Office of Health Care Affordability's $25 million thresholds must give notice at least 90 days before closing. If OHCA opens a cost and market impact review, closing can be delayed until 60 days after the final report.

The Everyday Permits

Smaller permits cause problems too. A seller's permit from the CDTFA can't be transferred; the buyer needs its own. The same goes for many city business tax certificates, county health permits, and professional licenses held by individuals rather than the business.

Building It Into the Deal

Inventory every license early. Make a list during diligence of each license, who holds it, and what happens to it on a sale. Missing items surface late, when there's no time to fix them.

Make approvals a closing condition. If the business can't operate without a license, the purchase agreement shouldn't require the buyer to close until it's approved.

Plan for the gap. Temporary permits and other interim arrangements can bridge the time between closing and approval, but only where the regulator allows them.

Assign the cost and the timeline. The agreement should say who pays the fees, who prepares the applications, and what happens if approval is delayed or denied.

Final Thoughts

The licenses a business runs on are often worth more than its equipment, and they're the assets least likely to transfer on their own. Treat regulatory approvals as part of the deal timeline from the start, not as paperwork to finish after closing.

About the Author

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