

Do You Need an Escrow Service when you Sell or Buy a Business?

Escrow is a service that facilitates the safe exchange of money and documents between two or more parties. You may be familiar with a residential escrow in which there are lien and title searches, expenses such as property taxes are prorated, and loans and money are exchanged.

A business escrow is similar. However, in addition to the items above, a business escrow deals with such things as alcoholic beverage license transfers and successor liability.

Use of an escrow is not required by law unless an alcoholic beverage license is involved. Then escrow is mandatory in California. Transfer of a liquor license involves careful back and forth between the Alcoholic Beverage Commission and escrow to confirm all legal requirements for the transfer have been met.

Successor liability occurs when a Buyer becomes liable for debts of the Seller. Escrow will coordinate obtaining clearances from government agencies such as the Internal Revenue Service, Franchise Tax Board, and Board of Equalization to protect the Buyer from successor liability. If the business has inventory escrow will publish a Notice of Bulk Transfer in a local publication. Following this procedure will put vendors to the business on notice to file a claim for any amounts they are due and prevents them from demanding the Buyer pay for the Seller's old balances.

The wide variety of taxes, licenses, and permits required to operate a business make sale and purchase of a business even more complex than for a building. Escrows are a valuable tool used by Business Brokers and Intermediaries to close successful deals.