

Liquor Licenses as an Asset: How to Administer an Estate when the Decedent is a Licensee?

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A client comes into your office seeking advice for his estate plan. He is the sole owner of a company that operates a popular bar in town, known for its margaritas. During your meeting, he specifies that he wants to devise his vintage car to his son, house to his daughter, art collection to his grandchildren, and the remainder equally to his children. He appoints you to serve as personal representative. Two years later, that client suddenly passes away. As the appointed personal representative, you have a fiduciary duty to marshal, protect, and manage all estate assets, satisfy valid debts of the decedent, and distribute the assets to the beneficiaries in accordance with the terms of the decedent's will or trust.

As personal representative, you must prepare an inventory of the estate assets in order to identify, gather, value, and safeguard your client's probate assets. During this process, you encounter a certificate that leaves you puzzled: a framed license issued by the Florida Division of Alcoholic Beverages and Tobacco ("DABT") that is posted on the wall of the bar. Your client's business is the only entity listed on the license, and there are no provisions regarding this license in the will. As a fiduciary, you are required to identify, value, manage, and ultimately distribute all estate assets. But how do you deal with the transfer of a liquor license?

Unlike other assets that require a simple transfer of title from the decedent, the transfer of a liquor license is more complex as it involves the DABT - the primary executive agency responsible for regulating Florida's alcohol industry - in the licensing and administrative transfer process. The individual administering the estate may have an obligation to transfer the license into the name of the personal representative on behalf of the estate, in order to have authority to transfer the license or complete a subsequent sale to a third party, depending on the type of license involved. Alternatively, if the client's intention is to have a beneficiary operate the establishment, this prospective owner must first meet the statutory and regulatory qualification requirements implemented and administered by the DABT in order to be licensed properly.¹ This can be a lengthy process that may require the submission of an ownership transfer application, criminal background checks, and additional supporting documentation, forms, and fees to ensure regulatory compliance and a smooth transition of operations.²

The Florida Beverage laws contemplate the probate of a liquor license, and certain transfer requirements do not apply to a probated license.³ For instance, when a transfer is facilitated by the death of a licensee, the transfer fees are waived.⁴ Additionally, if the license becomes delinquent during the transfer process, the delinquent penalties are waived.⁵ Nevertheless, once a transfer application is submitted, the DABT has discretionary power to approve or reject the application. If the DABT finds that the transferee is unfit due to moral character deficiencies or other disqualifying factors, the liquor license may revert to the DABT. Thus, during the estate planning process, it is critical to identify beneficiaries who would be eligible to hold the license.

¹ See Fla. Stat. §§ 561.15 (describing the licensure eligibility requirements); 561.17 (describing the individual qualification procedure); 561.18 (describing the applicant and location investigation process); *see also* Fla. Admin. Code Ann. r. 61A-1.017 (defining "good moral character" for eligibility purposes).

² See, e.g., Fla. Stat. § 561.32(1)(a) (describing the license transfer procedure).

³ Although this article describes general alcohol law issues in the probate context, there are similar issues that must be considered in the context of trust administration.

⁴ See Fla. Stat. § 561.32(5).

⁵ See *id.*

For a trusts and estate lawyer, these considerations should be discussed with any client that is involved in the alcohol industry as a licensed entity when planning an estate in order to mitigate any unexpected challenges that may arise. Moreover, once the estate is in a probate posture, it is critical to understand the unique alcohol laws that govern the operation of a licensed business and the disposition of a liquor license - which is not an ordinary asset - to protect the value of the estate and ensure there are no disruptions to business.