

GENERAL INFORMATION

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GENERAL INFORMATION

Items of Interest

1. INFORMATION ABOUT ATF

For assistance with applications, records, transactions, and other regulatory matters, contact your local ATF office. Information about criminal violations of Federal firearms laws should also be referred to that office.

Check ATF local listings in your telephone directory under "**U.S. Government.**" If unavailable, see the listings contained in ATF Publication 5300.5, State Laws and Published Ordinances - Firearms, which is furnished to all Federal firearms licensees.

Requests for ATF forms and publications should be directed to the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150-5950, (703) 455-7801.

ATF publishes the ATF Quarterly Bulletin, by which the agency informs interested persons about current alcohol, tobacco, firearms, and explosives matters, including regulatory, procedural, and administrative information; items of general interest; and, excerpts from public laws and congressional committee reports. The ATF Quarterly Bulletin may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800. Checks should be made payable to the Superintendent of Documents.

2. WEB SITE ADDRESSES

Further information pertaining to ATF and other Federal agencies referenced in this publication can now be obtained at the following web site addresses:

ATF: www.atf.treas.gov

FBI (NICS): www.fbi.gov/programs.htm

Department of State, Office of Defense Trade Controls: www.pmdtc.org

Department of Commerce, Bureau of Export Administration: www.bxa.doc.gov

3. IMPORTANT INFORMATION CONCERNING AR-15 TYPE RIFLES

ATF has encountered various AR-15 type assault rifles such as those manufactured by Colt, E.A. Company, SGW, Sendra and others, which have been assembled with fire control components designed for use in M16 machine guns. The vast majority of these rifles which have been assembled with an M16 bolt carrier, hammer, trigger, disconnect and selector will fire automatically merely by manipulation of the selector or removal of the disconnect. Many of these rifles using less than the 5 M16 parts listed above also will shoot automatically by manipulation of the selector or removal of the disconnect.

Any weapon which shoots automatically, more than 1 shot, without manual reloading, by a single function of the trigger, is a machine gun as defined in 26 U.S.C. 5845(b), the National Firearms Act (NFA). In addition, the definition of a machine gun also includes any combination of parts from which a machine gun may be assembled, if such parts are in possession or under the control of a person. An AR-15 type assault rifle which fires more than 1 shot by a single function of the trigger is a machine gun under the NFA. Any machine gun is subject to the NFA and the possession of an unregistered machine gun could subject the possessor to criminal prosecution.

Additionally, these rifles could pose a safety hazard in that they may fire automatically without the user being aware that the weapon will fire more than 1 shot with a single pull of the trigger.

In order to avoid violations of the NFA, M16 hammers, triggers, disconnectors, selectors and bolt carriers must not be used in assembly of AR-15 type semiautomatic rifles, unless the M16 parts have been modified to AR-15 Model SP1 configuration. Any AR-15 type rifles which have been assembled with M16 internal components should have those parts removed and replaced with AR-15 Model SP1 type parts which are available commercially. The M16 components also may be modified to AR-15 Model SP1 configuration.

It is important to note that any modification of the M16 parts should be attempted by fully qualified personnel only.

Should you have any questions concerning AR-15 type rifles with M16 parts, please contact your nearest ATF office. Our telephone numbers are listed in the **"United States Government"** section of your telephone directory under the **"United States Treasury Department."**

4. FEDERAL AGE RESTRICTIONS

Federal law prohibits Federal firearms licensees from selling or delivering any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than 18 years of age, and, if the firearm, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than 21 years of age. (18 U.S.C. 922(b)(1), 27 CFR 178.99(b)(1).)

[**Note:** Ammunition interchangeable between rifles and handguns (such as .22 caliber rimfire) may be sold to an individual 18 years of age, but less than 21, if the licensee is satisfied that the ammunition is being acquired for use in a rifle.]

Additionally, it is unlawful for a person to transfer a handgun to a juvenile (a person less than 18 years of age) and it is unlawful for a juvenile to possess a handgun. Exceptions are provided for the transfer of a handgun to and possession by a juvenile for the purposes of employment, ranching, farming, target practice or hunting as provided for in 18 U.S.C. 922(x).

Pursuant to regulations at 27 CFR 178.103, ATF distributes posters to licensed importers, manufacturers, and dealers that caution against the transfer of handguns to juveniles, as well as the possession of handguns by juveniles, in violation of 18 U.S.C. 922(x). The regulations require licensees to display the posters on their premises. Some licensees erroneously interpreted the poster to mean that that they may now lawfully transfer handguns to any person over 17 years of age. Enactment of section 922(x) making it unlawful to sell handguns to juveniles (persons under 18 years of age) and for juveniles to possess handguns did not alter section 922(b)(1) of the GCA that continues to prohibit licensees from transferring handguns to persons under 21 years of age.

5. SALES OF FIREARMS TO LAW ENFORCEMENT OFFICERS

Section 925(a)(1) of the GCA exempts law enforcement agencies from the transportation, shipment, receipt, or importation controls of the GCA when

firearms are to be used for the official business of the agency. An individual law enforcement officer's receipt and possession of firearms for use in carrying out official duties on behalf of an agency is also exempt, unless the officer has been convicted of a misdemeanor crime of domestic violence.

If a law enforcement officer is issued a certification letter on the agency's letterhead, signed by a person in authority within the agency stating the officer will use the firearm in performance of official duties and that a records check reveals that the purchasing officer has not been convicted of a misdemeanor crime of domestic violence, the officer specified in the certification may purchase a firearm from you regardless of the State in which the officer resides, or in which the agency is located.

You (the seller) are not required to prepare a Form 4473 covering this particular sale, as the certification letter is evidence of the transaction. Moreover, you are not required to comply with the Brady law where the purchase is made pursuant to such letter. However, disposition to the officer is to be entered in your permanent records and the certification letter kept in your files. The permanent records should show the residence address of the purchasing officer, not the address of the officer's employing agency.

If a law enforcement officer desiring to purchase a firearm does not have a certification letter, you (the seller) may still make the sale if the requirements of the Brady law (18 U.S.C. 922(t)), including a background check of the purchaser, are met. A Form 4473 covering such a sale must be prepared, the transaction must be entered in your permanent records, and all other applicable requirements of the law and regulations must be met.

ATF considers the following as persons having authority to certify that law enforcement officers purchasing firearms will use the firearms in performance of official duties:

- a. In a city or county police department, the director of public safety or the chief or commissioner of police.
- b. In a sheriff's office, the sheriff.
- c. In a State police or highway patrol department, the superintendent or the supervisor in charge of the office to which the State officer or employee is assigned.
- d. In Federal law enforcement offices, the supervisor in charge of the office to which the Federal officer or employee is assigned.

The Bureau would also recognize someone signing on behalf of a person in authority, provided there is a proper delegation of authority and overall responsibility has not changed in any way. (See **Question 011** for sales of semiautomatic assault weapons and large capacity ammunition feeding devices to law enforcement officers.) If the purchasing officer is a supervisory officer, the certification must be made by that officer's supervisor. In other words, the purchasing officer and the certifying officer may not be the same person.

6. SALE OF FIREARMS TO ALIENS IN THE UNITED STATES

ATF frequently receives questions about the legality of selling firearms to aliens. The purpose of this Item of Interest is to clarify the status of aliens who wish to purchase firearms and provide some of the exportation guidelines.

a. Domestic Sales

In order to purchase firearms in the United States from a Federal firearms licensee, an alien must:

- (1) Be 18 years of age (21 for handguns);
- (2) Provide the licensee with a government-issued photo identification document;
- (3) Complete ATF Form 4473, Firearms Transaction Record;
- (4) Comply with the Brady law, 18 U.S.C. 922(t);
- (5) Be a resident of the State in which the firearm purchase is made for a period of 90 days and substantiate residency by documentation (for example, utility bills or a lease agreement);
- (6) Not be admitted to the United States under a nonimmigrant visa (for exceptions, see 18 U.S.C. 922(y)(2)); and
- (7) Not be a felon or within any other category of prohibited person.

An alien who is legally in the United States will be considered to be a resident of a State for the purpose of complying with the GCA if he or she is residing in that State and has resided in that State continuously for at least 90 days before purchasing a firearm. **Note**, however, that even a legal resident alien who has lived in the United States for many years will have to wait 90 days before purchasing a firearm if the alien changes his or her State of residence.

Editor's Note

A 1997 amendment to the definition of State of residence in 27 CFR 178.11 removed the written statement of an alien's embassy or consulate as a means of acquiring a residence for the purpose of obtaining a firearm.

b. Export Sales

Removal of a firearm or ammunition from the U.S. by an alien is an **exportation**. With few exceptions, the firearms licensee must obtain an export license (Form DSP-5) from the State Department's **Office of Defense Trade Controls (ODTC)** prior to exportation. Also, a licensee may export a firearm or ammunition to an alien if an export license is obtained from ODTC.

ODTC takes the position that when a dealer knows or believes that a foreign customer intends to take a rifle or handgun out of the U.S., the dealer is legally obligated to notify ODTC that the firearm was sold for the purpose of exportation.

Where the licensee exports the firearms to the alien, the licensee need only record the name and address of the foreign customer in his or her bound book. Therefore, Form 4473 need not be completed.

Exportation Guidelines

Exportation of firearms other than sporting shotguns is regulated by the Department of State, Office of Defense Trade Controls.

For further information about obtaining an export license as well as detailed rifle and handgun exportation information, contact:

OFFICE OF DEFENSE TRADE CONTROLS
PM/DTC, SA-6, ROOM 228
DEPARTMENT OF STATE
WASHINGTON, DC 20522-0602
TELEPHONE (703) 875-6644

Web site: www.pmdtc.org

Exportation Guidelines (Shotguns)

The Department of Commerce oversees the exportation of shotguns with barrels between 18 and 28 inches in length. The Department of Commerce requires a general license to export these items. There is no fee for a general license. For further information, contact:

**BUREAU OF EXPORT ADMINISTRATION
EXPORT COUNSELING DIVISION
DEPARTMENT OF COMMERCE
14th ST. & PENNSYLVANIA AVE. N.W.
WASHINGTON, DC 20230
TELEPHONE (202) 482-4811
Web site: www.bxa.doc.gov**

Certain Shipments to Canada

Certain shipments to Canada are exempt from the Form DSP-5 licensing requirement. For all exportations to Canada, the person exporting the firearm must present a Shipper Export Declaration (Department of Commerce Form 7525-V) to the U.S. Customs Service prior to, or at the time of, exportation (22 CFR 123.25).

Licenses located near the Canadian border have asked ATF and ODTA if a Canadian resident could visit the shop, negotiate a purchase, and then arrange to receive the firearm in Canada. The dealer could bring or ship the firearm to the border, present a Form 7525-V to Customs, and then arrange to have the Canadian receive the firearm in Canada. The dealer records the transaction in his or her bound book, with the disposition showing sale to the Canadian with the Canadian address listed. No ATF Form 4473 is required since delivery was not made in the U.S. See also **Item 6** below containing information on Canadian firearms laws and regulations.

If the dealer performs this type of transaction more than occasionally, the dealer is required to register with ODTA as an exporter even though Forms DSP-5 are not required.

Under the provisions of the Arms Export Control Act of 1976, an export license must be obtained from ODTA before exporting a rifle or a handgun anywhere other than to Canada. Application for an export license is made to ODTA on Form DSP-5. There is no fee for the license. For all exportations, the person exporting the firearm must present a Shipper Export Declaration (Department of Commerce Form 7525-V) to the U.S. Customs Service prior to, or at the time of, exportation (22 CFR 123.25). Anyone who **regularly** exports firearms is required to register with ODTA as an exporter on Form DSP-9 and pay a registration fee, as follows:

1 year.....	\$250
2 years.....	\$500
3 years.....	\$700
4 years.....	\$850
5 years.....	\$1000

[22 CFR 122.2]

c. Sales to Diplomats

Diplomats, as individuals, are not exempt from Federal, State or local firearms laws. Sales to individuals, including diplomats and embassy personnel, must comply with all requirements of the GCA and the firearms regulations (27 CFR Part 178).

d. Sales to Foreign Embassies or Consulates

Special provisions have been made to allow for the sale of small quantities of firearms to foreign missions for the purpose of the physical security of embassy grounds. The arms become the property of the government whose embassy made the purchase, not the private property of an individual.

The dealer should obtain documentation which will show that the sale was a bona fide sale to a foreign mission and not a sale to an individual diplomat. Documentation should contain the following:

- (1) A purchase order or invoice from the foreign mission;
- (2) Payment out of government funds rather than from private funds; or
- (3) A written statement by the principal officer of the embassy or consulate that the weapons are being purchased by, and will be the property of, the mission.

Once the dealer has documented that a sale is to a foreign mission, he or she may complete the transaction by shipping or delivering the firearms directly to the foreign mission. Form 4473 need not be completed since the sale is considered to be an exportation.

ATF views the transaction as an exportation, as embassy grounds are regarded as foreign territory.

ODTC does not view the sale of "**reasonable quantities**" of firearms to a foreign embassy to be an exportation. Consequently, the dealer need not obtain an export license from ODTC to deliver firearms to the embassy. **ODTC should be contacted for further information.**

7. CANADIAN FIREARMS INFORMATION

a. General

Implementation of the **Firearms Act** on December 1, 1998, brought about extensive changes to Canadian firearm regulations. **Most changes affecting visitors bringing firearms into Canada will not come into effect until January 1, 2001.**

b. Individuals Bringing Firearms Into Canada

- An individual must be at least 18 years of age to bring a firearm into Canada.
- Prohibited firearms may not be brought into Canada or transported through Canada.
- Restricted firearms, including handguns, may only be imported with prior authorization from the Chief Firearms Officer of the province or territory to which you are traveling.
- Anyone entering Canada must declare all firearms to Canada Customs.

For more information on bringing firearms into Canada prior to January 1, 2001, contact Revenue Canada Customs at (613) 946-0240.

1. Prohibited firearms

The following firearms are classified as prohibited firearms and cannot be brought into Canada:

- short-barreled handguns (handguns with a barrel length equal to or less than 105 mm)
 - .25 caliber handguns
 - .32 caliber handguns
- (No handgun listed above is prohibited if it is prescribed by regulation for use in competitions governed by the rules of the International Shooting Union.)
- "sawed-off" rifles or "sawed-off" shotguns less than 660 mm in overall length
 - "sawed-off" rifles or "sawed-off" shotguns which have a barrel length of less than 457 mm and are equal to or more than 660 mm in overall length
 - all automatic firearms
 - automatic firearms that have been converted to semiautomatic or single shot
 - all firearms that the Governor in Council classifies as prohibited in the regulations (military and paramilitary firearms and firearms deemed to have no legitimate sporting or recreational use).

Cartridge magazines are also regulated. Generally, magazines used in semiautomatic, centerfire rifles and shotguns, or handguns not commonly available in Canada, with a capacity to contain more than 5 cartridges are prohibited. Magazines for other handguns that can contain more than 10 cartridges are also prohibited.

Where a prohibited firearm is declared at Canada Customs, a customs officer may allow the firearm to be exported back to its country of origin. Firearms that are not immediately exported are forfeited.

For information on firearms prohibited by regulations made by the Governor in Council or on firearms prescribed as International Shooting Union handguns, contact the Canadian Firearms Centre.

2. Restricted firearms

The following firearms are classified as restricted firearms requiring special authority to bring into Canada:

- all handguns which are not prohibited firearms
- semiautomatic centerfire rifles and shotguns that have a barrel length less than 470 mm and that have not been made prohibited
- rifles and shotguns that can fire after being reduced to an overall length of less than 660 mm, by any temporary means such as folding or telescoping
- all firearms that the Governor in Council classifies as restricted in the regulations (for information on these regulations, contact the Canadian Firearms Centre).

Anyone bringing a restricted firearm into Canada must have an Authorization to Transport for the restricted firearm. This authorization will permit transport of the restricted firearm between specified places within Canada. **This authorization must be obtained in advance from the Chief Firearms Officer of the Canadian province or territory to be visited.**

An applicant for an Authorization to Transport must show good and sufficient reason to bring restricted firearms to Canada, such as for use in target practice, or a target shooting competition at an approved shooting club or range. Restricted firearms cannot be used for hunting.

For more information on Authorizations to Transport, call the Chief Firearms Officer of the Canadian province or territory that you will be

visiting. You can obtain the address, telephone and fax numbers from the Canadian Firearms Centre.

3. January 1, 2001: Confirmed Firearms Declarations

All firearms users in Canada must have a license authorizing possession of firearms as of January 1, 2001. Visitors to Canada will require authorization to possess firearms in the form of a confirmed Firearms Declaration. When firearms are declared on entry into Canada, the declaration will be confirmed by a customs officer.

Firearms Declarations must normally be made in writing. In certain cases, a customs officer can accept an oral declaration. In most cases, it will be possible to complete and mail in a pre-declaration form, which can be confirmed when you arrive at the border. As 2001 approaches, Firearms Declaration forms will be available through outfitters, hunting and shooting clubs, Canadian tourism offices, and the Canadian Firearms Centre.

The declaration will require basic information about the visiting firearm user, the destination in Canada, and the reason for bringing a firearm into Canada. Background checks, including a criminal history search, will be conducted. Descriptive information about each firearm being brought into the country will also be required (i.e., make, model, serial number, caliber/gauge).

Certain items are not considered firearms for purposes of these regulations, including firearms classified as antiques under the Criminal Code and pellet guns designed to fire a projectile at no more than 152.4 meters per second (500 feet per second). While the firearms import/export regulations do not apply, these items should still be declared at Canada Customs.

4. Confirmation

On arrival at the border, a customs officer may review the Firearms Declaration and examine the firearms. If everything checks out, the customs officer will confirm the Firearms Declaration and, where restricted firearms are being imported, the Authorization to Transport. The visitor will receive a confirmation number either in writing or orally.

A confirmed Firearms Declaration will serve two purposes:

- it will act as a temporary license authorizing possession of the firearm(s) listed thereon; and
- it will serve as a temporary registration certificate for the firearms imported.

A Firearms Declaration will expire after 60 days. A Firearms Declaration for restricted firearms will expire on the earlier of 60 days or the expiration date of the Authorization to Transport. A new Firearms Declaration will be required for every re-entry into Canada. A Firearms Declaration may be renewed from within Canada by contacting the Chief Firearms Officer of the province or territory visited.

Firearms Declarations must be turned in when leaving Canada. In many cases, visitors will be able to leave Firearms Declarations in a drop-off box. In some cases, however, a Canadian customs officer at the border crossing may inspect it and the firearms to ensure that all the firearms previously brought into Canada are being exported.

5. Refusal to confirm

A customs officer can refuse to confirm a Firearms Declaration if:

- the declaration form is not completed truthfully, or required information is not provided;
- the requirements set out in the **Firearms Act** and regulations are not met; or
- he or she concludes that it is desirable, in the interests of the visitor's safety and/or the safety of others, that the firearm not be allowed to enter Canada.

If the customs officer refuses to confirm the Firearms Declaration, then, depending on the situation, the officer may:

- require that the firearm be exported from Canada; or
- detain the firearm and give the visitor a reasonable amount of time to comply with requirements.

6. Fee

The fee for a 60-day Firearms Declaration will be \$50 in Canadian funds. This amount will be payable only **once every 12 months**. If, within the 12-month period, the Firearms Declaration is renewed, or a new declaration is issued on re-entry to Canada, the fee will be waived. The \$50 fee covers all firearms imported by the same individual. There is no fee for the Authorization to Transport restricted firearms.

c. Borrowing Firearms while in Canada

On April 1, 1999, a temporary license authorizing non-residents to borrow firearms will be introduced. The Non-Resident's Sixty-Day Possession Licence will allow a holder to borrow **non-restricted** firearms (ordinary rifles and shotguns) in Canada. Persons who are **18 years of age or over** may get a license to borrow firearms for the following purposes:

- hunting under the supervision of an outfitter or other person authorized to provide organized hunting services in Canada;
- hunting with a Canadian resident who has the proper firearms license and hunting license;
- competing in a shooting competition;
- target practice at an approved shooting club or range;
- participating in a historical re-enactment or display;
- engaging in a business or scientific activity being carried on in a remote area where firearms are necessary for the control of predators;
- participating in a parade, pageant or other similar event; or
- using firearms for movie, television, video or theatrical productions or publishing activities.

Visitors are advised to apply for this temporary license well in advance of arrival at the Canadian border. License application forms are available from the Canadian Firearms Centre.

Fee: The fee for a Non-Resident's Sixty-Day Possession Licence for borrowed firearms will be \$30 in Canadian funds. This license may be renewed once in a 12-month period at no extra charge. Subsequent renewals cost \$30.

d. Storing, Transporting and Handling Firearms in Canada

Canadian federal law requires that firearms be transported unloaded. Restricted firearms must also be rendered inoperable with a secure locking device and locked inside an opaque container that cannot be readily broken

open or into or accidentally opened during transportation. When left in an unattended vehicle, the firearms must be in a locked trunk or a similar compartment. Where the vehicle does not have a trunk or similar compartment, the firearms must be locked inside the vehicle and out of sight. Provincial and municipal regulations may require a non-restricted firearm to be transported in a case in certain areas and at certain times.

When stored, firearms must be unloaded and rendered incapable of being fired, by using a secure locking device, by removing the bolt or bolt carrier or by storing the firearm in a sturdy, secure, locked container or room. Restricted firearms must be stored in a sturdy, secure, locked container or room **and** rendered inoperable with a secure locking device. Ammunition must be stored separately, unless it is in a securely locked container (ammunition and firearms may be stored in the same secure, locked container).

More information on requirements for the safe storage, transportation and handling of firearms in Canada is available from the Canadian Firearms Centre.

e. Canadian Firearms Centre

The Canadian Firearms Centre is an agency of the Government of Canada responsible for the implementation of the **Firearms Act**. For more information or to order a copy of the **Firearms Act** and regulations, or other Canadian Firearms Centre publications, contact:

1-800-731-4000 (Toll Free in the United States and Canada)
Web site: www.cfc-ccaf.gc.ca
e-mail: canadian.firearms@justice.x400.gc.ca
Mail: Canadian Firearms Centre
284 Wellington Street
Ottawa, Ontario, Canada
K1A 0H8

This article is intended to provide general information only. For legal references, refer to the Firearms Act and its regulations. Provincial, territorial and municipal laws, regulations, and policies may also apply.

8. OPERATIONS BY FEDERALLY LICENSED FIREARMS COLLECTORS

a. Licensing

A collector of curios or relics may obtain a collector's license under the GCA. The privileges conferred by this license extend only to curio or relic transactions, as discussed in detail below. In transactions involving firearms not classified as curios or relics, the licensed collector has the same status as a nonlicensee. A person need not be federally licensed to collect curios or relics. However, the individual must be licensed in order to lawfully receive curios or relics from outside his or her State of residence. Federal law, regulations, and general information pertaining to licensed collectors and curios or relics can be found in this publication.

Recordkeeping requirements for licensed collectors are discussed in detail in 27 CFR Part 178.

b. What are Curios or Relics?

As set out in the regulations (27 CFR 178.11), curios or relics include firearms which have special value to collectors because they possess some qualities not ordinarily associated with firearms intended for sporting use or

as offensive or defensive weapons.

Please note that ammunition is no longer classified as curios or relics since the Congress in 1986 removed the interstate controls over ammunition under the GCA.

To be recognized as curios or relics, firearms must:

1. Have been manufactured at least 50 years prior to the current date, but not including replicas thereof; or
2. Be certified by the curator of a municipal, State or Federal museum which exhibits firearms to be curios or relics of museum interest; or
3. Derive a substantial part of their monetary value from the fact that they are novel, rare, or bizarre, or from the fact of their association with some historical figure, period, or event.

Collectors wishing to obtain a determination whether a particular firearm qualifies for classification as a curio or relic in accordance with 27 CFR 178.26 should submit a written request for a ruling. The letter should include:

- (1) A complete physical description of the item;
- (2) Reasons the collector believes the item merits the classification;
- (3) Data concerning the history of the item, including production figures, if available, and market value.

In some cases, actual submission of the firearm may be required prior to a determination being made. Requests should be sent to the Bureau of ATF, Firearms Technology Branch, Washington, DC 20226.

ATF's classifications of curios or relics are published in ATF P 5300.12, Firearms Curios or Relics List. Curios or relics are listed in the publication under the following headings:

Section I. Ammunition Classified as Curios or Relics: As noted above, Congress ended the recognition of ammunition curios or relics. Thus, no ammunition has received curio or relic classification since August 1986.

Section II. Firearms Classified as Curios or Relics Under the GCA: Licensed collectors may acquire, hold or dispose of these firearms as curios or relics. However, they are still firearms as defined in 18 U.S.C. 921(a)(3) and are, therefore, subject to all GCA controls. Generally, this category includes commemorative handguns, semiautomatic pistols, revolvers and rifles.

Section III. NFA Firearms Removed From the NFA as Collectors' Items and Classified as Curios or Relics Under the GCA: Weapons in this section are excluded entirely from the provisions of the NFA. Thus, approval from ATF to transfer these weapons is not required. They need not be registered in the National Firearms Registration and Transfer Record and they are not subject to the transfer tax. These weapons are still firearms under the GCA and remain subject to regulation under 27 CFR Part 178.

Section IV. NFA Firearms Classified as Curios or Relics Under the GCA: These weapons (e.g., machine guns) are firearms within the scope of the NFA and are subject to all the Act's provisions. Accordingly, these weapons cannot be lawfully transferred or received unless they are registered with ATF in the National Firearms Registration and Transfer Record.

c. Licensed Collector's Activities

Subject to other applicable provisions of the law and regulations, a collector's license entitles its holder to transport, ship, receive and acquire curios or relics in interstate or foreign commerce and to dispose of curios or relics in interstate or foreign commerce to any other Federal firearms licensee. Dispositions of curios or relics by licensed collectors are not subject to the requirements of the Brady law; however, dispositions should not be made to any person whom the collector knows or has reasonable cause to believe is a felon or is within any other category of persons to whom sales are prohibited by 18 U.S.C. 922(d).

However, ATF has recognized only assembled firearms as curios or relics. Moreover, ATF's classification of surplus military firearms as curios or relics has extended only to those firearms in their original military configuration.

Frames or receivers of curios or relics are not generally recognized as curios or relics by ATF since they are not of special interest or value as collectors' items. Specifically, they do not meet the definition of curio or relic in 27 CFR 178.11 as firearms of special interest to collectors by reason of a quality other than is ordinarily associated with sporting firearms or offensive or defensive weapons.

Those collectors having questions concerning the importability of specific curio or relic firearms should contact the Bureau of ATF, Firearms and Explosives Imports Branch, Washington, DC 20226.

The principal advantage of a collector's license is that the collector can lawfully acquire curios or relics from both licensees and nonlicensees without regard to his/her State of residence. A licensed collector may acquire and dispose of curios or relics at any location, the only limitation being that a disposition made to a nonlicensee is to be made to a resident of the same State in which the collector is licensed.

d. Restrictions on Licensed Collector's Activities

As stated earlier, the collector's license covers only transactions in curios or relics. A licensed collector has the same status as a nonlicensee with respect to transactions in firearms that are not curios or relics.

While a licensed collector may acquire curios or relics and dispose of same from a personal collection, the collector is not authorized to engage in a firearms dealing business in curios or relics pursuant to a collector's license. As stated in 27 CFR 178.41(d), "...if the acquisition and disposition of curios or relics by a collector bring the collector within the definition of a manufacturer, importer or dealer under this part, he shall qualify as such." For example, if a collector acquires curios or relics for the purpose of sale rather than to enhance a collection, the collector would have to be licensed as a dealer in firearms under the GCA. Additionally, if the collector is dealing in NFA firearms, the collector would be liable for the special (occupational) tax prescribed by the NFA. **The sole intent and purpose of the collector's license is to enable a firearms collector to obtain a curio or relic from outside his or her State of residence.**

9. ANTIQUE FIREARMS UNDER THE GCA, NFA AND THE ARMS EXPORT CONTROL ACT

Under section 921(a)(16) of the GCA, the term **antique firearm** means:

"(A) any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; and

(B) any replica of any firearm described in subparagraph (A) if such replica-

(i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or

(ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; or

(C) any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, which is designed to use black powder, or a black powder substitute, and which cannot use fixed ammunition."

For purposes of subparagraph (C), a muzzle loading rifle, shotgun, or pistol is not an "antique firearm" for purposes of the GCA if it incorporates a firearm frame or receiver, if it is a firearm which is converted into a muzzle loading weapon, or if it can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination of such parts.

Under section 5845(g) of the NFA, **antique firearm** means:

"...Any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade."

To illustrate the distinction between the two definitions of antique firearm under the GCA and NFA, a rifle manufactured in or before 1898 would not come under the provisions of the GCA, even though it uses conventional ammunition. However, if such rifle has a barrel of less than 16 inches in length AND uses conventional fixed ammunition which is available in the ordinary channels of commercial trade, it would still be a **firearm** subject to the provisions of the NFA.

An antique firearm as defined in **both** the GCA and NFA is exempt from all of the provisions and restrictions contained in both laws. Consequently, such an antique firearm may be bought, sold, transported, shipped, etc., without regard to the requirements of these laws.

Under the Arms Export Control Act certain "antique firearms" are not subject to the import controls under that Act. These "antique firearms" are defined as "muzzle loading (black powder) firearms (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) or firearms covered by Category I(a) established to have been manufactured in or before 1898." No all-inclusive list of antique firearms is published by ATF.

10. IMPORTATION BY NONLICENSEES

a. Nonlicensed U.S. Residents

A permit must be obtained to import or bring into the United States any firearm or ammunition. The firearm or ammunition must be generally recognized as particularly suitable for, or readily adaptable to, sporting purposes.

Surplus military firearms are generally excluded from importation into the United States except for certain curio or relic surplus military firearms imported by licensed importers only.

A federally licensed firearms dealer located in the nonlicensee's State of residence may act as an agent to import the nonlicensee's personal firearm, provided that the firearm is lawfully importable. The form to be used by the licensee is ATF Form 6, Part I, Application and Permit For Importation of Firearms, Ammunition and Implements of War, and may be obtained from the Bureau of ATF, Firearms and Explosives Imports Branch, Washington, DC 20226.

A nonlicensee may obtain a permit to import sporting ammunition for personal use (excluding armor piercing handgun ammunition, tracer, incendiary, or large capacity ammunition feeding devices), and firearm parts (other than frames, receivers, or actions) without engaging the services of a Federal firearms licensee. Silencer parts and certain machine gun parts are subject to the NFA and may not be imported. If the nonlicensee chooses to have a licensee handle the importation, the licensee should complete and send to ATF an ATF Form 6, Part I, in accordance with the instructions on the form. The nonlicensee's name, address, and telephone number should appear in Item 9, "Specific purpose of importation."

No permit or authorization from ATF is required to bring into the United States a firearm or ammunition that was **previously taken out** of the U.S. by the person bringing it in. The U.S. Customs Service is authorized to release a firearm or ammunition without a permit from ATF upon a proper showing of proof that the firearm or ammunition was taken out of the country by the person bringing it in. This proof is best established by having registered the item or items with U.S. Customs on Customs Form 4457, Certificate of Registration, at the point and time of departure.

For further information, see ATF Rul. 81-3 and ATF Rul. 85-10, set out within the Rulings, Procedures, and Industry Circulars portion of this publication.

**b. Nonresident U.S. Citizens Returning to the United States
and Nonresident Aliens Immigrating to the United States**

A nonresident U.S. citizen returning to the United States after having resided outside of the United States, or a nonresident alien lawfully immigrating to the United States, may apply for a permit from ATF to import for personal use, not for resale, firearms and ammunition acquired outside of the United States without having to utilize the services of a federally licensed firearms dealer. The application on ATF Form 6, Part I should include a statement, on the application form or on an attached sheet, that:

(1) the applicant is a nonresident U.S. citizen who is returning to the United States from a residence outside of the United States or, in the case of an alien, is lawfully immigrating to the United States from a residence outside of the United States, and

(2) the firearms and ammunition are being imported for personal use and not for resale.

No permit will be issued to import firearms or ammunition which are not generally recognized as particularly suitable for, or readily adaptable to, sporting purposes, surplus military firearms, or National Firearms Act (NFA) firearms (e.g., machine guns, silencers, destructive devices, short-barreled

rifles, short-barreled shotguns, etc.).

The firearms must accompany such persons, since once a person is in the United States and has acquired residence in a State, he or she may import a firearm only by arranging for the importation through a federally licensed firearms dealer.

Section 922(a)(3) of Title 18, U.S.C. makes it unlawful, with certain exceptions, for a person to bring into his State of residence a firearm which he or she acquired outside that State. An unlicensed resident of a State must, therefore, arrange for the importation of the firearm through a federally licensed firearms dealer.

The definition of "State of residence" in 27 CFR 178.11 provides that the State in which an individual is present with the intention of making a home in that State is the State of residence of that person. U.S. citizens who reside outside of the United States are not residents of a State while so residing. A person lawfully immigrating to the United States is not a resident of a State unless he or she is residing and has resided in a State for a period of at least 90 days.

c. Members of the Armed Forces

(1) Import Permit Requirements

Section 925(a)(4) of the GCA provides that:

"When established to the satisfaction of the Secretary to be consistent with the provisions of this chapter [the GCA] and other applicable Federal and State laws and published ordinances, the Secretary may authorize the transportation, shipment, receipt or importation into the United States to the place of residence of any member of the United States Armed Forces who is on active duty outside the United States (or who has been on active duty outside the United States within the 60 day period immediately preceding the transportation, shipment, receipt, or importation), of any firearm or ammunition which is:

(A) determined by the Secretary to be generally recognized as particularly suitable for sporting purposes, or determined by the Department of Defense to be a type of firearm normally classified as a war souvenir, and

(B) intended for the personal use of such member."

Applications to import firearms are filed on ATF Form 6, Part II and should include a detailed description of each firearm to be imported. Incomplete information will cause return of your application. Applications should be completed in triplicate and mailed to the Bureau of ATF, Firearms and Explosives Imports Branch, Washington, DC 20226.

A member of the Armed Forces who does not meet the above criteria must obtain the services of a Federal firearms licensee located in his or her State of residence to import a firearm on behalf of the member. The licensee would submit an application on ATF Form 6, Part I.

A permit must be obtained for all firearms to be imported, regardless of the date purchased. However, this does not apply to a firearm previously taken out of the United States by the person bringing it in, nor to a firearm shipped by a licensee in the United States to a serviceman on active duty outside the United States or to an authorized rod and gun club abroad specifically for the serviceman importing the firearm.

The U.S. Customs Service is authorized to release a firearm without a

permit from ATF upon presentation of proof to Customs that the firearm was taken out of the United States by the person bringing it in, or shipped from the United States to the serviceman under one of the aforementioned conditions.

If your application is approved, the original will be returned to you. This will be your authorization to import the firearm(s) described on the form. The permit is valid for 1 year from the date of approval. If disapproved, your application will be stamped **disapproved** and returned to you with the reason for disapproval stated.

Authorization will not be given to import a machine gun, or any other firearm as defined in the NFA, regardless of the degree of serviceability.

Authorization will not be given to import any surplus military firearm (unless it has been listed as a curio or relic in accordance with 18 U.S.C. 921(a)(13) and 925(e)) or any firearm not recognized as particularly suitable for sporting purposes. However, such firearm may be brought into the United States without a permit, provided the person bringing it in can establish to the satisfaction of U.S. Customs officials that he or she previously owned the firearm in the United States and is now returning it to the United States.

To determine whether or not a handgun may be authorized for importation **as particularly suitable for sporting purposes**, the "factoring" criteria for pistols and revolvers (ATF Form 4590) is used.

(2) Importation of War Souvenirs or War Trophy Firearms

The regulations (27 CFR 178.114(c)) provide that firearms determined by the Department of Defense to be war souvenirs may be imported into the United States by members of the U.S. Armed Forces under such provisions and procedures as the Department of Defense may issue.

For information regarding the classification of war souvenirs or trophies by the Department of Defense, see DOD regulations AR 608-4, OPNAVINST 3460.7A, AFR 125-13, and MCO 5800.6A, describing articles and material that are not considered war trophies and may not be kept or imported into the United States by members of the U.S. Armed Forces.

The aforementioned Department of Defense regulations list machine guns and other firearms coming within the purview of the NFA, regardless of the degree of serviceability, among the items which are prohibited from being retained and introduced into the United States by Armed Forces personnel.

The Customs Service is authorized to release a firearm without an import permit from ATF where a properly executed DD Form 603, **Registration of War Trophy Firearms**, is presented certifying that the firearm to be brought in has been classified as a war souvenir under DOD regulations. To be valid, the DOD Form 603 must have been issued during a period authorized by DOD.

(3) Revenue Ruling 69-309

The requirement that an import permit be obtained for each firearm to be imported was relaxed somewhat by Rev. Rul. 69-309. This ruling allows members of the U.S. Armed Forces, under specified conditions, to import up to 3 rifles or shotguns, excluding surplus military, and up to 1,000 rounds of ammunition without obtaining an import permit. The waiver provided by this ruling does not include handguns. A permit for each handgun to be imported must be obtained.

[Rev. Rul. 69-309 is set out within the Rulings, Procedures, and Industry Circulars portion of this publication. A sample copy of the certification required by the ruling is set forth below.]

**Sample of Certification under
Revenue Ruling 69-309
(Attaches to Form 6A)**

Under the penalties provided by law, I hereby declare that I now am, or have been, on active duty outside the United States within 60 days immediately preceding this importation; that I am returning to the United States from a permanent overseas duty station; that the transportation to, and the receipt and possession by, me at my place of residence or new permanent duty station located at [City]_____ [State]_____ of the firearm(s) and/or ammunition described on the attached ATF Form 6A would not constitute any violation of the Gun Control Act (18 U.S.C. Chapter 44) or of Section 38 of the Arms Export Control Act of 1976 (22 U.S.C. 2778), or of any applicable State law, or of any published, local ordinance.

_____ Signature	_____ Date	_____ Rank
_____ Date of Birth	_____ Branch/Service	_____ Serial Number

(4) ATF Ruling 74-13

ATF was informed by State and local authorities that handguns were transported, shipped, received, or imported into the United States by members of the U.S. Armed Forces to their State of residence without such members having obtained the required permits or other authorizations required by the State for lawful possession or ownership of handguns in that State.

The ruling holds that a member of the U.S. Armed Forces who is a resident of any State or territory which requires that a permit or other authorization be issued prior to possessing or owning a handgun shall submit evidence of compliance with State law before an application to import a handgun may be approved.

[ATF Rul. 74-13 is set out within the Rulings, Procedures, and Industry Circulars portion of this publication.]

11. SPECIAL TAXPAYERS AND NFA FIREARMS

a. General

Anyone wishing to manufacture, import, or deal in firearms as defined in the NFA must:

1. Be properly licensed as a Federal firearms licensee;
2. Have an employer identification number (even if you have no employees); and
3. Pay the Special (Occupational) Tax required of those manufacturing, importing, or dealing in NFA firearms.

Those weapons defined as NFA firearms can be found in sections 5845(a)-(f) of the NFA.

After payment of the tax, you will receive a Special (Occupational) Tax Stamp as evidence you have paid the required occupational tax as a NFA manufacturer, importer, or dealer.

b. What You Need To Proceed

If you do not already have an employer identification number (EIN), you must obtain and complete a Form SS-4 application to obtain such a number. This number must appear on all registration documents when you apply to receive or transfer any NFA firearm. You may obtain the Form SS4 from any Social Security Administration Office, any IRS Service Center, or IRS District Office.

Federal firearms licensees who wish to engage in business of importing, manufacturing, or dealing in NFA firearms are required to pay Special (Occupational) Tax for each business location. The tax year begins July 1st and ends June 30th of the following year. If you begin business any time during the tax year, you are responsible for the full amount of tax for the entire year, i.e., the taxes are not prorated.

CLASS OF SPECIAL TAX	ACTIVITY COVERED	ANNUAL TAX AMOUNT	TYPE OF FIREARMS LICENSE
Class 1	Importer	\$1,000*	Type 08 or 11
Class 2	Manufacturer	\$1,000*	Type 07 or 10
Class 3	Dealer	\$ 500	Type 01

* -If your gross receipts for the prior Fiscal Year were less than \$500,000, the tax is \$500.

If you want to be a Class 3 dealer, you could have a Type 01, Type 02, Type 07, or Type 08 Federal firearms license. The tax you would pay (Class 3) allows you to deal, only, in NFA firearms. Being a Class 3 dealer will not, however, have any effect on your business activity involving non-NFA firearms.

Submit ATF Form 5630.7, Annual Special Tax Registration and Return, along with your check or money order [not cash] to:

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
P.O. BOX 371970
PITTSBURGH, PENNSYLVANIA 15250-7970

Upon receipt of your properly completed ATF Form 5630.7, together with your remittance, a Special Tax Stamp will be mailed directly to you.

c. Permanent Change of Address, Location or Name

If you change your address, location, or trade name, you must file a new

ATF Form 5630.7 advising us of that change. You may accomplish this easily by attaching ATF F 5630.7 to your Special Tax Stamp and mailing them to the Pittsburgh address shown.

To change your trade name, you must also obtain an amended Federal firearms license. This is done by sending a copy of your license (with the changes noted thereon) to the Firearms and Explosives Licensing Center, P.O. Box 2994, Atlanta, Georgia 30301.

To change your location, you must file an Application for an Amended Federal Firearms License, ATF Form 5300.38, with the Chief, Firearms and Explosives Licensing Center, not less than 30 days prior to the move. You must obtain the amended license before commencing business at the new location.

We suggest that you contact the NFA Branch at (202) 927-8330 if there is a change in who controls the business or in business structure.

d. Applications to Transfer or Make NFA Firearms

All applications to transfer or make NFA firearms must be submitted in duplicate, with both copies bearing original signatures. Extra care in ensuring that the applications are completed accurately will expedite the flow of your paperwork. Particular attention should be given to the serial number of the weapon to ensure that it does not have suffixes or prefixes.

With regard to transfers going to individuals, please ensure that the law enforcement certification is signed by someone acceptable to sign, and that the certifying officer does, in fact, have jurisdiction where the transferee resides. See also Question **M19** on acceptable certifying officials.

All ATF Form 4 applications must be accompanied by 2 properly completed sets of fingerprint cards (FBI Form FD-258). Fingerprint classification can take as long as 4-8 weeks. In some cases (particularly when fingerprints have not been properly taken), fingerprint classification can, and does, take several months. For your Form 4 applications to be expeditiously acted upon, it is imperative that the fingerprint cards you submit be complete in all respects.

All applications for taxpaid making or transfer (ATF Forms 1 and ATF Forms 4) should be forwarded, together with proper remittance, to the following address:

BUREAU OF ATF
P.O. BOX 73201
CHICAGO, ILLINOIS 60673

All other applications and correspondence should be forwarded to the National Firearms Act Branch at the address appearing at the end of this item.

e. Machine guns

Machine guns produced, imported, or registered after May 19, 1986, the effective date of 18 U.S.C. 922(o), are restricted for use by a government agency or for exportation. We will allow Class 3 dealers to receive necessary "sales samples" of these firearms if they obtain a letter from a local law enforcement agency, on the agency's letterhead, indicating a **bona fide** need to see the weapon.

If we, through an error in processing, fail to note on your transfer document(s) that certain weapons are restricted, such error will not exempt

you from complying with the restrictions of 18 U.S.C. 922(o).

f. Forms

Forms you may need in the conduct of your business (but not bound books which are privately sold) are available from:

ATF DISTRIBUTION CENTER
PO BOX 5950
SPRINGFIELD, VIRGINIA 22150-5950
(703) 455-7801

g. Going Out Of Business

(1) NFA Activities Only

Machine guns. If you, as a Special (Occupational) Taxpayer, decide not to renew your payment of the special tax, all machine guns which you possess that are restricted under 18 U.S.C. 922(o) must be transferred to a qualified Special (Occupational) Taxpayer having a legitimate need for the weapon(s), to a government agency, or be exported. Such transfer must occur before you allow your Federal firearms license and special tax status to expire. Otherwise, these firearms must be abandoned to ATF or be subject to seizure.

When you, as a Special (Occupational) Taxpayer, go out of business as a manufacturer, importer, or dealer in NFA firearms, you may, **if you are a sole proprietor**, retain those machine guns imported or manufactured prior to May 19, 1986, the effective date of 18 U.S.C. 922(o). You should record your possession of the weapon(s) as an individual in your acquisition/disposition book. Machine guns imported under 26 U.S.C. 5844 for use as samples may only be transferred to government agencies or to a Federal firearms licensee who has paid the special (occupational) tax to manufacture, import, or deal in NFA firearms. **This provision allowing retention of machine guns imported or manufactured prior to May 19, 1986, applies to corporations or partnerships only if the weapons remain the property of the corporation or partnership after the special (occupational) tax stamp expires.** If the machine guns are distributed to others by the corporation or partnership when business as a special taxpayer ceases (for example, to an individual officer, stockholder, or partner), the transaction will be treated as a transfer subject to the transfer, registration, and tax provisions of the NFA.

Other NFA weapons. When you, as a Special (Occupational) Taxpayer, go out of business as a manufacturer, importer, or dealer in NFA firearms and have on hand firearms other than machine guns, you may, **if you are a sole proprietor**, retain those firearms. You should record your possession of the weapon(s) as an individual in your acquisition/disposition book. **This provision allowing retention of firearms applies to corporations or partnerships only if the weapons remain the property of the corporation or partnership after the special (occupational) tax stamp expires.** If the firearms are distributed to others by the corporation or partnership when business as a special taxpayer ceases (for example, to an individual officer, stockholder, or partner), the transaction will be treated as a transfer subject to the transfer, registration, and tax provisions of the NFA. Any NFA firearms retained that were imported under 26 U.S.C. 5844 for use as samples may only be transferred to government agencies or to a Federal firearms licensee who has paid the special (occupational) tax to manufacture, import, or deal in NFA firearms.

CAUTION

The mere possession of a license and a special (occupational) tax stamp as a dealer in NFA firearms does not qualify a person to receive firearms free of transfer tax. Where a person who possesses a license and tax stamp is not

actually engaged in the business of selling NFA firearms and receives such firearms by a tax-free transfer on ATF Form 3, an unlawful transfer in violation of the NFA has occurred because the transfer tax was not paid. In such cases, the firearms involved are subject to seizure and forfeiture. (Also, see ATF Rul. 76-22, set out within the Rulings, Procedures, and Industry Circulars portion of this publication.)

Should your special tax status lapse, your continued possession of certain firearms may place you in violation of various State laws and local ordinances. We urge you to carefully consider the consequences of possessing NFA firearms in your particular city, county, and State without being a Special (Occupational) Taxpayer.

(2) Disposition of Records

If someone is taking over the business, the licensee will underline the final entry in each bound book, note the date of transfer, and deliver all records and forms kept by the licensee to the successor (who must apply for and receive his own license before lawfully engaging in business) or deliver the records and forms to the ATF Out-of-Business Records Center. If there is no business successor, within 30 days of business discontinuance the licensee must ship the required records and forms to the ATF Out-of-Business Records Center, 2029 Stonewall Jackson Drive, Falling Waters, WV 25419.

h. Questions or Problems

In the event you have any inquiries relating to your NFA business activity, please contact:

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
NATIONAL FIREARMS ACT BRANCH
WASHINGTON, DC 20226
(202) 927-8330

12. MOVING REGISTERED NFA FIREARMS INTERSTATE

A person who desires to transport a machine gun, short-barreled rifle, short-barreled shotgun, or destructive device interstate must first apply to ATF for permission to do so. ATF Form 5320.20, Application to Transport Interstate or to Temporarily Export Certain National Firearms Act (NFA) Firearms, can be used for this purpose. Only after the person receives ATF approval can the firearm be taken into another State, even for a short period of time. This requirement does not apply to a licensee qualified under the National Firearms Act to engage in business with respect to the weapon or device to be transported or to a licensed collector if the device or weapon to be transported is a curio or relic.

Alternatively, the lawful owner of the firearm may write a letter, in duplicate, giving:

- a.** A complete description and identification of the device or weapon to be transported;
- b.** A statement whether such transportation involves a transfer of title;
- c.** The need for such transportation;
- d.** The approximate date such transportation is to take place;

e. The present location of such device or weapon, the place to which it is to be transported, and the transportation to be used (including, if by common carrier, the name and address of the carrier); and

f. Evidence that the transportation or possession of such device or weapon is not inconsistent with the laws at the place of destination.

An application will not be approved if possession of the firearm at the place of destination would place the possessor in violation of State or local law.

If you have any questions regarding this subject, please contact:

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
NATIONAL FIREARMS ACT BRANCH
WASHINGTON, DC 20226
(202) 927-8330

13. LISTS OF LICENSEES/PERMITTEES

Current lists of Federal firearms licensees and Federal explosives licensees and permittees are available. Prices are quoted on request.

For a copy of the order form, contact:

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
DISCLOSURE BRANCH
WASHINGTON, DC 20226
(202) 927-8480

We must advise, however, that Federal law generally prohibits the disclosure (either affirmatively or negatively) of information concerning the registration of NFA firearms. Therefore, please do not ask us for the names of persons engaged in business with respect to machine guns or other NFA firearms.

14. IDENTIFYING FIREARMS

To insure that firearms are properly identified, ATF wishes to remind licensees that it is their responsibility to ensure that firearms are properly identified in accordance with the law. The markings on the firearms are vital to our tracing program. Violations of the law and regulations may result in criminal and administrative action, including license revocation, denial of license renewal applications, and recall. For required markings see 27 CFR 178.92 and 179.104.

15. NFA FIREARMS IN DECEDENT'S ESTATES

Possession of an NFA firearm not registered to the possessor is a violation of Federal Law and the firearm is subject to seizure and forfeiture. However, a reasonable time is allowed for transfer of lawfully registered firearms in a decedent's estate.

It is the responsibility of the executor or the administrator of an estate to transfer firearms registered to a decedent. ATF Form 5, Application for Tax Exempt Transfer and Registration of a Firearm, is used to apply for a tax-exempt transfer to a lawful heir. A lawful heir is anyone named in the decedent's will or, in the absence of a will, anyone entitled to inherit under the laws of the State in which the decedent last resided. NFA firearms may be

transferred directly interstate to a beneficiary of the estate. However, if any Federal, State or local law prohibits the heir from receiving or possessing the firearm, ATF will not approve the application. When a firearm is being transferred to an individual heir, his or her fingerprints on FBI Forms FD-258 must accompany the transfer application.

ATF Form 4 is used to apply for the taxpaid transfer of a serviceable NFA firearm to a person outside the estate (not a beneficiary). ATF Form 5 is also used to apply for the tax-exempt transfer of an unserviceable NFA firearm to a person outside the estate. As noted above, all requirements, such as fingerprint cards for transfers to individuals and compliance with State or local law, must be met before an application could be approved.

If the NFA firearm in the estate was imported for use as a "sales sample," this restriction on the firearm's possession remains. The NFA firearm may only be transferred to a Federal firearms licensee who has paid the special (occupational) tax to deal in NFA firearms or to a government agency.

For further information, contact:

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
NATIONAL FIREARMS ACT BRANCH
WASHINGTON, DC 20226
(202) 927-8330

16. "STRAW PURCHASES"

Questions have arisen concerning the lawfulness of firearms purchases from licensees by persons who use a "straw purchaser" (another person) to acquire the firearms. Specifically, the actual buyer uses the straw purchaser to execute the Form 4473 purporting to show that the straw purchaser is the actual purchaser of the firearm. In some instances, a straw purchaser is used because the actual purchaser is prohibited from acquiring the firearm. That is to say, the actual purchaser is a felon or is within one of the other prohibited categories of persons who may not lawfully acquire firearms or is a resident of a State other than that in which the licensee's business premises is located. Because of his or her disability, the person uses a straw purchaser who is not prohibited from purchasing a firearm from the licensee. In other instances, neither the straw purchaser nor the actual purchaser is prohibited from acquiring the firearm.

In both instances, the straw purchaser violates Federal law by making false statements on Form 4473 to the licensee with respect to the identity of the actual purchaser of the firearm, as well as the actual purchaser's residence address and date of birth. The actual purchaser who utilized the straw purchaser to acquire a firearm has unlawfully aided and abetted or caused the making of the false statements. The licensee selling the firearm under these circumstances also violates Federal law if the licensee is aware of the false statements on the form. It is immaterial that the actual purchaser and the straw purchaser are residents of the State in which the licensee's business premises is located, are not prohibited from receiving or possessing firearms, and could have lawfully purchased firearms from the licensee.

An example of an illegal straw purchase is as follows: Mr. Smith asks Mr. Jones to purchase a firearm for Mr. Smith. Mr. Smith gives Mr. Jones the money for the firearm. If Mr. Jones fills out Form 4473, he violates the law by falsely stating that he is the actual buyer of the firearm. Mr. Smith also violates the law because he has unlawfully aided and abetted or caused the making of false statements on the form.

Where a person purchases a firearm with the intent of making a gift of the firearm to another person, the person making the purchase is indeed the true purchaser. There is no straw purchaser in these instances. In the above example, if Mr. Jones had bought a firearm with his own money to give to Mr. Smith as a birthday present, Mr. Jones could lawfully have completed Form 4473. The use of gift certificates would also not fall within the category of straw purchases. The person redeeming the gift certificate would be the actual purchaser of the firearm and would be properly reflected as such in the dealer's records.

17. FEDERAL EXCISE TAX ON FIREARMS AND AMMUNITION

A Federal excise tax is imposed by 26 U.S.C. 4181 on the sale by the manufacturer, importer or producer of firearms, shells, and cartridges. The tax is 10 percent of the sale price for pistols and revolvers, 11 percent of the sale price for firearms and 11 percent of the sale price for shells and cartridges.

The excise tax attaches only to the sale of complete firearms and ammunition or firearms that, although in a knockdown condition, are complete as to all component parts.

The term **firearm** for excise tax purposes includes all portable weapons, such as rifles, carbines, machine guns, shotguns, and fowling pieces from which a shot, bullet, or projectile may be discharged by an explosive. The term firearm also includes pistols and revolvers. Antique firearms are also subject to the excise tax.

Shells and cartridges include any article consisting of a projectile, explosive, and container that is designed, assembled, and ready for use without further manufacture in firearms, pistols or revolvers.

Reloading of used shells or cartridges is considered manufacturing for purposes of excise tax. Sale of such shells by the reloader is subject to the excise tax. However, if the reloader merely reloads shells belonging to a customer and is paid for labor and materials, the reloading service is not a taxable sale, as long as the reloader returns the identical shells provided by the customer to that same customer. In such instances the customer is the manufacturer and would not be liable for tax if the shells are manufactured for personal use. If the customer sells reloaded shells or uses them in a business, e.g., shooting range, the customer would be liable for the tax.

Returns and Deposits

Regulations in 27 CFR Part 53 require that taxpayers incurring a tax liability on the sale or use of firearms and ammunition file excise tax returns quarterly on ATF Form 5300.26, Federal Firearms and Ammunition Excise Tax Return. In addition, taxpayers are required to make semimonthly deposits of tax on ATF Form 5300.27.

Further Information

For more detailed information regarding firearms and ammunition excise taxes, refer to ATF Publication 5300.16, Firearms or Ammunition Manufacturers and Importers Information Booklet.

18. ARMOR PIERCING AMMUNITION

For purposes of the prohibitions imposed upon manufacture, importation, and transfer of armor piercing ammunition in 18 U.S.C. 922(a)(7)-(8) and

923(e), armor piercing ammunition includes the following:

KTW AMMUNITION, all calibers. Identified by a green coating on the projectile.

ARCANE AMMUNITION, all calibers. Identified by a pointed bronze or brass projectile.

THV AMMUNITION, all calibers. Identified by a brass or bronze projectile and a head stamp containing the letters SFM and THV.

CZECHOSLOVAKIAN manufactured 9mm Parabellum (Luger) ammunition having an iron or steel bullet core. Identified by a cupronickel jacket and a head stamp containing a triangle, star, and dates of 49, 50, 51, or 52. This bullet is attracted to a magnet.

GERMAN manufactured 9mm Parabellum (Luger) having an iron or steel bullet core. Original packaging is marked Pistolenpatronen 08 m.E. May have black colored bullet. This bullet is attracted to a magnet.

MSC AMMUNITION, caliber .25. Identified by a hollow point brass bullet.
NOTE: MSC ammunition, caliber .25 identified by a hollowpoint copper bullet is **not** armor piercing.

BLACK STEEL ARMOR PIERCING AMMUNITION, all calibers, as produced by National Cartridge, Atlanta, Georgia.

BLACK STEEL METAL PIERCING AMMUNITION, all calibers, as produced by National Cartridge, Atlanta, Georgia.

7.62mm **NATO AP**, identified by black coloring in the bullet tip. This ammunition is used by various NATO countries. The U.S. military designation is M61 AP.

7.62mm **NATO SLAP**. Identified by projectile having a plastic sabot around a hard penetrator. The penetrator protrudes above the sabot and is similar in appearance to a Remington accelerator cartridge.

PMC ULTRAMAG, .38 Special caliber, constructed entirely of a brass type material, and a plastic pusher disc located at the base of the projectile.

NOTE: **PMC ULTRAMAG 38J** late production made of copper with lead alloy projectile is **not** armor piercing.

OMNISHOCK. A .38 Special cartridge with a lead bullet containing a mild steel core with a flattened head resembling a wad cutter. **NOTE:** **OMNISHOCK** cartridges having a bullet with an aluminum core are **not** armor piercing.

7.62x39mm with steel core. These projectiles have a steel core. **NOTE:** Projectiles having a lead core with steel jacket or steel case are **not** armor piercing.

In addition, the Violent Crime Control and Law Enforcement Act of 1994 added to the definition of armor piercing ammunition the following:

"... a full jacketed projectile larger than .22 caliber designed and intended for use in a handgun and whose jacket has a weight of more than 25 percent of the total weight of the projectile."

Exemptions: The following articles are exempted from the definition of armor piercing ammunition.

5.56 mm (.223) SS 109 and M855 Ammunition, identified by a green coating on

the projectile tip.

U.S. .30-06 M2AP, identified by a black coating on the projectile tip.

19. ASSEMBLY OF NONSPORTING SEMIAUTOMATIC RIFLES AND SHOTGUNS FROM IMPORTED PARTS

Section 922(r), Title 18, U.S.C., makes it unlawful for any person to assemble from imported parts any semiautomatic rifle or any shotgun which is identical to any rifle or shotgun prohibited from importation under section 925(d)(3) of the GCA. Regulations implementing the law in 27 C.F.R. 178.39 provide that a violation of section 922(r) will result if a semiautomatic rifle or shotgun is assembled with more than 10 of the following imported parts:

- (1) Frames, receivers, receiver castings, forgings, or stampings
- (2) Barrels
- (3) Barrel extensions
- (4) Mounting blocks (trunnions)
- (5) Muzzle attachments
- (6) Bolts
- (7) Bolt carriers
- (8) Operating rods
- (9) Gas pistons
- (10) Trigger housings
- (11) Triggers
- (12) Hammers
- (13) Sears
- (14) Disconnectors
- (15) Buttstocks
- (16) Pistol grips
- (17) Forearms, handguards
- (18) Magazine bodies
- (19) Followers
- (20) Floorplates

Section 922(r) does not prohibit the importation, sale, or possession of parts which may be used to assemble a semiautomatic rifle or shotgun in violation of the statute. However, 18 U.S.C. § 2 provides that a person who aids or abets another person in the commission of an offense is also responsible for the offense. Therefore, a person who sells parts knowing that the purchaser intends to use the parts in assembling a firearm in violation of section 922(r) would also be responsible for the offense.

It should be noted that a violation of section 922(r) may result even if the assembled rifle or shotgun does **not** meet the definition of "semiautomatic assault weapon" in the GCA. For example, a person who assembled an SKS rifle with a folding stock and fixed magazine would violate section 922(r), since the SKS would have more than 10 of the imported parts specified in the regulation. However, the SKS rifle with a fixed magazine would still not be regulated as a "semiautomatic assault weapon."

20. FIREARMS THEFT/LOSS REPORTING

Federal firearms licensees are required to report the theft or loss of firearms from their inventory or collection to local authorities as well as to ATF within 48 hours after the theft or loss is discovered.

The notification to ATF must be made through our toll free theft hotline

number which is 1-800-800-3855. The hotline is operational 24 hours a day, 7 days a week. The caller should indicate that he or she is a Federal firearms licensee and be ready to furnish his or her Federal firearms license number. The hotline representative will provide the licensee with an incident number which should be recorded in the licensee's bound book.

The verbal notification must be followed up by a written notification to ATF within the same 48-hour period. The written notification should be made on ATF F 3310.11, Federal Firearms Licensee Theft/Loss Report, in accordance with the instructions on the form. This form is available from the ATF Distribution Center.

Theft or loss of NFA firearms should be reported to the NFA Branch at (202) 927-8330 immediately upon discovery.

21. IMPORTATION OF SEMIAUTOMATIC ASSAULT RIFLES AND MODIFIED VERSIONS OF SUCH RIFLES

Section 925(d)(3), Title 18, U.S.C., states that the Secretary shall authorize a firearm or ammunition to be imported or brought into the United States if it is of a type that does not fall within the definition of a firearm in section 5845(a) of the Internal Revenue Code of 1954 and is generally recognized as particularly suitable for or readily adaptable to sporting purposes, excluding surplus military firearms.

In 1989, ATF identified a type of rifle known as a semiautomatic assault rifle and found that weapons of this type were not generally recognized as particularly suitable for or readily adaptable to sporting purposes under the sporting purposes test for importation in 18 U.S.C. 925(d). Accordingly, on July 6, 1989, ATF determined that rifles of this type were not importable into the United States. ATF's finding was based, in part, on the determination that these rifles have certain characteristics that are common to modern military assault rifles and that distinguish them from traditional sporting rifles. These characteristics include the ability to accept a detachable magazine, folding/telescoping stocks, separate pistol grips, ability to accept a bayonet, flash suppressors, bipods, grenade launchers, and night sights. It was decided that any of these military features, other than the ability to accept a detachable magazine, would make a semiautomatic assault rifle not importable. The particular rifles barred from importation were as follows:

AKS Variants

AK 47 type
AK47S type
AK74 type
AKS type
AKM type
AKMS type
ARM type
84S type
84S1 type
84S3 type
86S type
867S type
Galil type
Type 56 type
Type 56S type
Valmet M76 type
Valmet M78 type
M76 counter sniper type

Other

AUG type
FNC type
Uzi carbine
Algimec AGM1 type
AR180 type
Australian Automatic Arms SAR type
Beretta AR70 type
Beretta BM59 type
CIS SR88 type
HK91 type
HK93 type
HK94 type
G3SA type
K1 type
K2 type
AR100 type
M14S type
MAS223 type
SIG 550SP type
SIG 551SP type
SKS with detachable magazine

FAL Variants

FAL type
L1A1A type
SAR 48

Subsequent to the 1989 decision, certain semiautomatic assault rifles that failed the 1989 sporting purposes test for importation were modified to remove all of their military features other than the ability to accept a detachable magazine. They could still accept the large capacity magazines originally designed and produced for the military assault rifles from which they were derived. The modified weapons were permitted to be imported because they met the 1989 sporting purposes test for importation.

On November 14, 1997, the President and the Secretary of the Treasury ordered a review of the importation of modified versions of semiautomatic assault rifles into the United States. Consequently, it was decided on April 6, 1998, that the following modified versions of semiautomatic assault rifles could no longer be imported under the sporting purposes test.

AK47 Variants

MAK90
314
56V
89
EXP56A
SLG74
NHM90
NHM90-2
NHM91
SA85M
SA93
A93
AKS762
SA2000
ARM
MISR
MISTR
SA85M
Mini PSL
ROMAK 1
ROMAK 2
ROMAK 4
Hunter Rifle
386S
PS/K
Galil Sporter
Haddar
Haddar II
WUM 1
WUM 2
SLR95
SLR96
SLR97
SLG94
SLG95
SLG96

FN-FAL Variants

L1A1 Sporter
FAL Sporter
FZSA
SAR4800
XFAL
C3
C3A
LAR Sporter

HK Variants

BT96
Centurian 2000
SR9
PSG1
MSG90
G3SA
SAR8

Uzi Variants

Officers 9
320 carbine
Uzi Sporter

SIG SG550 Variants

SG550-1
SG550-2

It should also be noted that on September 13, 1994, Congress passed the Violent Crime Control and Law Enforcement Act which made it unlawful, with certain exceptions, to manufacture, transfer, or possess semiautomatic assault weapons as defined by the statute (18 U.S.C. 922(v)). Therefore, any weapon banned under section 922(v) would also be denied importation into the United States because its possession would be illegal. Weapons covered by section 922(v) are defined in 18 U.S.C 921(a)(30).

22. IMPORTATION OF HANDGUNS

Section 925(d)(3), Title 18, U.S.C., states that the Secretary shall authorize a firearm or ammunition to be imported or brought into the United States if it is of a type that does not fall within the definition of a firearm in section 5845(a) of the Internal Revenue Code of 1954 and is generally recognized as particularly suitable for or readily adaptable to sporting purposes, excluding surplus military firearms. The statute also prohibits the importation of any frame, receiver, or barrel of a firearm that would be prohibited if assembled.

In 1968, the Secretary established the Treasury Department Firearms Evaluation Panel. The purpose of this panel was to assist in the

establishment of guidelines for use in determining if a particular firearm would be importable under the sporting purposes test prescribed by section 925(d)(3). This panel was composed of representatives from the firearms industry, law enforcement, and the Federal Government.

The panel developed objective numerical criteria with minimum qualifying scores to determine if a handgun is particularly suitable for or readily adaptable to sporting purposes. The criteria, ATF Form 4590, Factoring Criteria for Weapons, assigns point values to handguns based on dimensions, material used in construction, weight, caliber, safety features and miscellaneous equipment. The criteria also have prerequisite requirements concerning safeties and minimum dimensions.

Form 4590 is divided into two parts. The right side of the form is used to evaluate revolvers and the left side is used to evaluate pistols. The minimum qualifying score for a revolver is 45 points and the minimum qualifying score for a pistol is 75 points. The form also provides that revolvers must pass a safety test.

Any handgun being imported into the United States must pass these criteria. The fact that a particular weapon may be of domestic manufacture or classified as a curio or relic does not exempt it from the factoring criteria.

If you have any questions concerning Form 4590, or the score a particular handgun achieves, please contact the ATF Firearms Technology Branch at (202) 927-7910.