

## **Amendment to Provisions of 26 U.S.C. Section 4182 50 Gun Exemption to Firearms and Ammunition Excise Tax (FAET)**

Title 26, United States Code, Section 4181 imposes an excise tax on a manufacturer's, producer's, and importer's sale or taxable use of firearms, shells and cartridges. Title 26, United States Code, Section 4182 provides for certain exemptions to this tax. Currently, only sales to the Department of Defense and Coast Guard (with funds appropriated for the military department) and transactions where the National Firearms Act Transfer Tax (26 U.S.C. Section 5811) has been paid are exempt from the tax.

Recently, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: Legacy for Users was signed into law. This act amends 26 U.S.C. Section 4182 to also exempt from the tax any pistol, revolver, or firearm if it was manufactured, produced or imported by a person who manufactures, produces or imports less than an aggregate of 50 such articles during the calendar year.

Whether a manufacturer, importer or producer qualifies for this exemption is to be determined by the number of firearms manufactured, produced and imported on a calendar year basis (January 1-December 31). For example, if Company "A" manufactures 20 firearms in Year 1 then it is exempt from FAET as to all firearms it manufactures and sells in Year 1. However, if Company "A" manufactures 55 firearms in Year 2 then it is subject to FAET on all firearms sold in Year 2.

The amendment also provides that all persons that are a part of a controlled group of corporations will be treated as one taxpayer for purposes of this exemption. This will prevent corporations from using this exemption through the use of its subsidiary corporations. It should be noted that this amendment does not apply to shells and cartridges. This is probably due to the fact that shells and cartridges are not sold in single unit quantities.

This amendment is to take effect on October 1, 2005. Since FAET is paid quarterly this corresponds with the beginning of the new tax quarter (October 1 – December 31, 2005). Further, this exemption has prospective application in that it has no effect on the past tax liability of a manufacturer, producer or importer.

## Changes in exemptions at a glance

Exemptions from Federal Firearms and Ammunition Excise Taxes (FAET)		
	26 U.S.C. 4182 <i>(Currently)</i>	26 U.S.C. 4182 <i>(Amended)</i> <b>Effective: October 1, 2005</b>
Firearms, shells and cartridges sold to the Department of Defense and Coast Guard (with funds appropriated for the military department)	<b>Are</b> exempt from FAET	<b>Are</b> exempt from FAET
Transactions where the National Firearms Act (NFA) Transfer Tax has been paid	<b>Are</b> exempt from FAET	<b>Are</b> exempt from FAET
Any pistol, revolver, or firearm (but not shells or cartridges) if it was manufactured, produced or imported by a person who manufactures, produces or imports less than an aggregate of 50 such articles during the calendar year	<b>Are NOT</b> exempt from FAET	<b>Are</b> exempt from FAET

If you have any further questions please contact

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