

# GENERAL INFORMATION

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# GENERAL INFORMATION

## 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 also should be referred to that office.

A list of ATF field offices is on page 198 of this publication.

Requests for ATF forms and publications should be directed to the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22150-5950. Most forms and publications also are available at [www.ATF.gov](http://www.ATF.gov).

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 is available at [www.ATF.gov](http://www.ATF.gov).

## 2. 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 machineguns. The vast majority of these rifles which have been assembled with an M16 bolt carrier, hammer, trigger, disconnecter and selector will fire automatically merely by manipulation of the selector or removal of the disconnecter. 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 disconnecter.

Any weapon which shoots automatically more than 1 shot without manual reloading, by a single function of the trigger, is a machinegun as defined in 26 U.S.C. 5845(b), the National Firearms Act (NFA). The definition of a machinegun also includes any combination of parts from which a machinegun 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 machinegun under the NFA. Any machinegun is

subject to the NFA and the possession of an unregistered machinegun 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. A list of ATF field offices is on page 198 of this publication.

## 3. 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 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 478.99(b)(1).)

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 generally is unlawful for a person to transfer a handgun to a juvenile (a person less than 18 years of age) and it generally 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 478.103, 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.

## 4. SALES 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 a licensee regardless of the State in which the officer resides, or in which the agency is located. A licensee is not required to prepare a Form 4473 covering this particular sale, as the certification letter is evidence of the transaction. Moreover, a licensee is not required to comply with the Brady law (e.g., conduct a NICS check) where the purchase is

made pursuant to such letter. However, disposition to the officer is to be entered in the licensee's permanent records and the certification letter kept in his 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, a licensee may still make the sale if the requirements of the Brady law (18 U.S.C. 922(t)), including a NICS background check of the purchaser, are met. A Form 4473 covering such a sale must be prepared, the transaction must be entered in the licensee's 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. 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.

## 5. SALES TO ALIENS IN THE UNITED STATES

### 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 continuous days before the transfer (if purchasing a long gun, the alien must establish 90-day continuous residency in any State) and substantiate residency by documentation (for example, utility bills or a lease agreement);

(6) Not be an illegal or nonimmigrant alien (for exceptions to the non-immigrant alien prohibition, see 18 U.S.C. 922(y)(2) and (3)); 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.

### b. Export Sales

Removal of a firearm or ammunition from the U.S. by anyone is an exportation. With few exceptions, the firearms licensee must obtain an export license (Form DSP-5) from the State Department's Directorate of Defense Trade Controls (DDTC) or the Commerce Department's Bureau of Industry and Security (BIS) prior to exportation. When a licensee exports firearms directly to an alien's residence outside the United States, the licensee need only record the name and address of the foreign customer in his or her bound book. ATF Form 4473 need not be completed.

DDTC 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 DDTC that the firearm was sold for the purpose of exportation.

### Exportation Guidelines

Exportation of firearms other than sporting shotguns is regulated by the

Department of State, DDTC.

Any person who intends to export, temporarily export or to import temporarily firearms, ammunition or components as defined under the United States Munitions List (22 CFR 121) must obtain the approval of the DDTC prior to export or temporary import, unless the export or temporary import qualifies for an exemption under the provisions of the International Traffic in Arm Regulations (22 CFR 120-130).

For further information about the exportation or temporary importation of firearms and ammunition, contact:

DIRECTORATE OF DEFENSE  
TRADE CONTROLS  
U.S. DEPARTMENT OF STATE  
PM/DDTC, SA-1, ROOM 1200  
WASHINGTON, DC 20037

TELEPHONE: 202-663-1282  
WEBSITE: [WWW.PMDTC.ORG](http://WWW.PMDTC.ORG)

### Exportation Guidelines (Shotguns and Related Parts, Components, Shotgun Shells, and Certain Muzzle Loading Firearms)

The Department of Commerce regulates the exportation of shotguns with a barrel length of 18 inches and over, as well as related parts, components, shotgun shells, and certain muzzle loading (black powder) firearms. The Department of Commerce requires a specific license to export or re-export these items to most destinations. For further information, contact:

OUTREACH AND EDUCATION  
SERVICES DIVISION  
OFFICE OF EXPORTER SERVICES  
BUREAU OF INDUSTRY AND  
SECURITY  
DEPARTMENT OF COMMERCE  
1401 CONSTITUTION AVENUE, N.W.,  
ROOM 1099-C  
WASHINGTON, DC 20230

TELEPHONE: 202-482-4811  
WEBSITE: [WWW.BIS.DOC.GOV](http://WWW.BIS.DOC.GOV)

### 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 478), including the general prohibition on nonimmigrant aliens unless the diplomat is purchasing the firearm/ammunition for official purposes.

#### **d. Sales to 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 one of 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 because ATF considers the sale to be an exportation. ATF views the transaction as an exportation because embassy grounds are regarded as foreign territory.

However, DDTC 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 DDTC to deliver firearms to the embassy. DDTC should be contacted for further information.

### **6. 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 came into effect on January 1, 2001.

#### **b. Individuals Bringing Firearms Into Canada**

An individual must be at least 18 years of age to bring a firearm into Can-

ada. Prohibited firearms (see discussion below on prohibited firearms) may not be brought into Canada or transported through Canada.

Restricted firearms (see discussion below on restricted firearms) 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 Canadian Customs.

For more information on bringing firearms into Canada, contact the Canada Firearms Centre at 1-800-731-4000.

#### **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 prescribed by regulation (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, with a capacity to contain more than 5 cartridges are prohibited. Magazines for semi-automatic handguns that can contain more than 10

cartridges are also prohibited.

When a prohibited firearm is declared at Canadian 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 or on firearms prescribed as International Shooting Union handguns, contact the Canada Firearms Centre at 1-800-731-4000.

#### **2. Restricted firearms**

The following firearms are classified as restricted firearms requiring an Authorization to Transport from a Chief Firearms Officer 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 are not 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 prescribed by regulation as restricted (for information on these regulations, contact the Canada 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 have a valid purpose for bringing 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 Canada Firearms Centre.

### 3. January 1, 2001: Confirmed Firearms Declarations

All persons who possess or use firearms 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 some cases, it will be possible to complete and mail in a pre-declaration form, which can be confirmed when you arrive at the border. Firearms Declaration forms are available through outfitters, hunting and shooting clubs, Canadian tourism offices, and the Canada Firearms Centre.

The declaration requires 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, may be conducted. Descriptive information about each firearm being brought into the country will also be required (i.e., make, model, serial number, caliber/gauge).

#### 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. However, 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 reentry into Canada. A Firearms Declaration may be extended from within Canada by

contacting the Chief Firearms Officer of the province or territory visited.

#### 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 is \$50 in Canadian funds. This amount will be payable only once every 12 months. If, within the 12-month period, the Firearms Declaration is extended, or a new declaration is issued on reentry 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 was introduced. The Non-Resident's Sixty-Day Possession License allows a holder to borrow **nonrestricted** 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 Canada Firearms Centre.

**Fee:** The fee for a Non-Resident's Sixty-Day Possession License 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 nonrestricted 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 se-

curely 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 Canada Firearms Centre.

#### e. Canada Firearms Centre

The Canada Firearms Centre Administration 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 Canada Firearms Centre publications, contact the CFC at:

CANADA FIREARMS CENTRE  
OTTAWA, ONTARIO, CANADA  
K1A 1M6

TELEPHONE: 1-800-731-4000  
WEBSITE: <http://www.cfc.gc.ca>  
E-MAIL: [cfc-cafc@cfc-cafc.gc.ca](mailto:cfc-cafc@cfc-cafc.gc.ca)

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.

## 7. OPERATIONS BY LICENSED 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 478.

### b. What are Curios or Relics?

As set out in the regulations (27 CFR 478.11), 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 does not include 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.

ATF has recognized only complete, assembled firearms as curios or relics. 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 478.11 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.

Collectors wishing to obtain a determination whether a particular firearm qualifies for classification as a curio or relic in accordance with 27 CFR 478.26 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, 244 Needy Road, Martinsburg, West Virginia 24501.

ATF's classifications of curios or relics are published in ATF P 5300.11, 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 478.

**Section IIIA. Weapons Removed from the NFA as Collectors' Items Which are Antiques not Subject to the Provisions of the GCA:** Weapons in this section are not subject to the provisions of either the NFA or the GCA.

**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).

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

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 and dispose of curios or relics 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 478.41(d), "...if the acquisitions and dispositions 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.

### **8. ANTIQUE FIREARMS**

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; or

(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 be an antique firearm 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 not be an antique firearm under 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.

Under the Export Administration Act, the Bureau of Industry and Security (BIS) maintains export control requirements on a wide range of dual-use commodities, software, and technology. BIS requires an export license for muzzle loading (black powder) firearms with a caliber less than 20 mm that were manufactured later than 1937 and that are not reproductions of firearms manufactured earlier than 1890. This BIS control does not apply to weapons used for hunting or sporting purposes that were not specially designed for military use and are not of the fully automatic type. This exemption does not apply if the weapon meets certain control requirements. Contact BIS at 202-482-4811 for additional information.

### **9. 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 Fire-



arms, Ammunition and Implements of War, and may be obtained from the Bureau of ATF, Firearms and Explosives Imports Branch, or from the ATF website at [www.ATF.gov](http://www.ATF.gov).

A nonlicensee may obtain a permit to import sporting ammunition for personal use (excluding armor piercing handgun ammunition, or tracer or incendiary ammunition) or firearm parts (other than frames or receivers) without engaging the services of a Federal firearms licensee. Silencer parts and certain machinegun 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. U.S. Customs and Border Protection (CBP) 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 on CBP 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. Non-resident U.S. Citizens Returning to the United States and Non-resident Aliens Immigrating to the United States**

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

(1) the applicant is a non-resident 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 immigrat-

ing 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., machineguns, silencers, destructive devices, short-barreled rifles, short-barreled shotguns, etc.).

The firearms must accompany non-resident U.S. citizens, 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. Non-resident aliens must bring in the firearms within 90 days of their arrival, which is when they obtain State residency.

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.

#### **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 Attorney General to be consistent with the provisions of this chapter [the GCA] and other applicable Federal and State laws and published ordinances, the Attorney General 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 Attorney General 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 such 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.

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.

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.

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 (if they can prove they previously took the firearm out of the United States), nor to a firearm shipped by a licensee in the United States to a serviceperson on active duty outside the United States or to an authorized rod and gun club abroad specifically for the serviceperson importing the firearm.

Authorization will not be given to import a machinegun, 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)) and is being imported by a licensed importer.

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 478.114(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 machineguns 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.

CBP 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) ATF Ruling 74-13**

ATF was informed by State and local authorities that handguns were being 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.

Ruling 74-13 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 Cir-

culars portion of this publication.

**10. 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 SS-4 from any Social Security Administration Office, any IRS Service Center, or IRS District Office.

Federal firearms licensees who wish to engage in the 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	\$1000*	08 or 11
Class 2	Manufacturer	\$1000*	07 or 10
Class 3	Dealer	\$ 500	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) only allows you to deal 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, FIREARMS AND EXPLOSIVES  
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 Changes**

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 above.

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 Federal Firearms Licensing Center.

To change your location, you must file an Application for an Amended Federal Firearms License, ATF Form 5300.38, with the Chief, Federal Firearms 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 if there is a change in who controls the business or in business structure.

**d. Applications to Make or Transfer 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 Question **M18** on acceptable certifying officials.

All ATF Form 4 applications must be accompanied by 2 properly completed sets of fingerprint cards (FBI Form FD-258). 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.

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. Machineguns**

Machineguns produced, imported, or registered after May 19, 1986, the effective date of 18 U.S.C. 922(o), generally are unlawful except 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 to conduct your business (but not bound books which are privately sold) are available from:

ATF DISTRIBUTION CENTER  
PO BOX 5950  
SPRINGFIELD, VIRGINIA 22150-5950

### **g. Going Out Of Business**

#### **(1) NFA Activities Only**

**Machineguns.** If you, as a Special (Occupational) Taxpayer, decide not to renew your payment of the special tax, all machineguns which you possess that are restricted under 18 U.S.C. 922(o) must be transferred to a Special (Occupational) Taxpayer having a legitimate need for the weapon(s) 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 and forfeiture. Additional information relating to possession of registered machineguns, other NFA firearms, and record keeping requirements following discontinuance of business is provided below.

**Pre-86 Machineguns.** When a Special (Occupational) Taxpayer goes out of business as a dealer in NFA firearms, if the business is a sole proprietor, the proprietor may continue to possess machineguns lawfully imported or manufactured prior to May 19, 1986 (the effective date of 18 U.S.C. 922(o)) and which are registered to the sole proprietor. The proprietor should record the disposition of the firearms by the business to the individual proprietor in the acquisition and disposition book. If all firearms business is being discontinued and there is no successor, all records required by the GCA must be delivered within 30 days to the Out-of-Business Records Center (see Questions **C5-C7**, later in this publication). As these firearms are "grandfathered" weapons not subject to the restrictions of 18 U.S.C. 922(o), they may be transferred to any person who is not otherwise prohibited by law from possessing them in accordance with the NFA.

When a Special (Occupational) Taxpayer goes out of business as a dealer in NFA firearms and the business is a corporation, partnership, or other type of artificial business entity, the business may continue to possess pre-86 machineguns registered to the business only if the corporation or partnership continues to exist under State law and only if the title to the machineguns remains in the business after the Special (Occupational) tax stamp expires. If the corporation or partnership is dissolved or otherwise ceases to exist under State law, then the machineguns will have been transferred to whomever poss

esses them after dissolution. If all firearms business is being discontinued and there is no successor, all records required by the GCA must be delivered within 30 days to the Out-of-Business Records Center (see Questions **C5-C7**, later in this publication). Transfer applications must be submitted and approved before dissolution occurs to avoid placing the possessors in violation of the NFA. If the registered machineguns are transferred to officers or directors of a corporate registrant or individual partners of a partnership, the transaction is a transfer subject to all applicable provisions of the NFA and GCA, including completion of a Form 4473 and compliance with the Brady law.

**Post-86 Machineguns.** When a Special (Occupational) Taxpayer goes out of business as a dealer in NFA firearms, machineguns lawfully imported or manufactured on or after May 19, 1986, may not be retained by the business. Such machineguns are subject to the restrictions of 18 U.S.C. 922(o) and must be transferred to a law enforcement agency for official use or to another qualified NFA dealer as dealer sales samples in accordance with 27 C.F.R. 479.105(d). Post-86 machineguns that are not transferred prior to expiration of the special tax stamp are subject to seizure and forfeiture.

**NFA Firearms Other Than Machineguns.** When a Special (Occupational) Taxpayer goes out of business as a dealer in NFA firearms and the business is a sole proprietor, the proprietor may continue to possess firearms registered to the business. The proprietor should record the disposition of the firearms by the business to the individual proprietor in the acquisition and disposition book. If all firearms business is being discontinued and there is no successor, all records required by the GCA must be delivered within 30 days to the Out-of-Business Records Center (see Questions **C5-C7**, later in this publication). Subsequent transfers of the registered weapons are subject to all the provisions of the NFA and GCA.

When a Special (Occupational) Taxpayer goes out of business as a dealer in NFA firearms and the business is a corporation, partnership, or other type of artificial business entity, the business may continue to possess firearms other than machineguns registered to the business only if the corporation or part

nership continues to exist under State law and only if title to the firearms remains in the business after the Special (Occupational) tax stamp expires. If the corporation or partnership ceases to exist under State law, then the firearms will have to be transferred to whoever possesses them after dissolution. Transfer applications must be submitted and approved before this occurs to avoid placing the possessors in violation of the NFA. If the registered firearms are transferred to officers or directors of a corporate registrant or individual partners of a partnership, the transaction is a transfer subject to all applicable provisions of the NFA and GCA, including completion of a Form 4473 and compliance with the Brady Law.

Any NFA firearms retained by the business that were imported under 26 U.S.C. 5844 for use as samples or for scientific or research purposes may only be transferred to government agencies for official use 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, 244 Needy Road, Martinsburg, WV 25401.

#### **h. If You Have Questions or Problems**

In the event you have any inquiries relating to your NFA business activity, please contact: Bureau of Alcohol, Tobacco, Firearms and Explosives, National Firearms Act Branch.

#### **11. MOVING NFA FIREARMS INTERSTATE**

A person who desires to transport a machinegun, 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, Firearms and Explosives, National Firearms Act Branch.

#### **12. 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: the Bureau of Alcohol, Tobacco, Firearms and Explosives, Disclosure Branch.

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 machineguns or other NFA firearms.

#### **13. IDENTIFYING FIREARMS (MARKINGS)**

To ensure 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 and denial of license renewal applications. For required markings see 27 CFR 478.92 and 479.104. See also ATF Ruling 2002-6, set out within the Rulings, Procedures, and Industry Circulars portion of this publication.

#### **14. NFA FIREARMS IN DECEDENTS' 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 dece-

dent. 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 of 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, Firearms and Explosives, National Firearms Branch.

## 15. 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.

## 16. FEDERAL EXCISE TAX

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 shells and cartridges. This tax was formerly administered by ATF. Now, the tax is administered by the Alcohol and Tobacco Tax and Trade Bu-

reau (TTB), Department of the Treasury.

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, machineguns, 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 TTB Form 5300.26, Federal Firearms and Ammunition Excise Tax Return. In addition, taxpayers are required to make semimonthly deposits of tax on TTB Form 5300.27.

## Further Information

For more detailed information regarding firearms and ammunition excise taxes, refer to the TTB web site, [www.TTB.gov](http://www.TTB.gov).

## 17. 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 hollowpoint 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.

#### **18. ASSEMBLY OF NONSPORTING SEMIAUTOMATIC RIFLES AND SHOTGUNS**

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. 478.39 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.

#### **19. 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 **1-888-930-9275**. 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 immediately upon discovery.

#### **20. IMPORTATION OF SEMIAUTOMATIC ASSAULT RIFLES AND MODIFIED VERSIONS OF SUCH RIFLES**

Section 925(d)(3), Title 18, U.S.C., states that the Attorney General 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 1986 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

#### **FAL Variants**

FAL type  
L1A1A type  
SAR 48

#### **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

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

## **21. IMPORTATION OF HANDGUNS**

Section 925(d)(3), Title 18, U.S.C., states that the Attorney General 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 1986 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 of the Treasury 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 military.

The panel developed objective numerical criteria with minimum qualifying scores to determine if a handgun is par-

ticularly 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.

**22. IMPORTANT INFORMATION FOR CHIEF LAW ENFORCEMENT OFFICERS (CLEOs) RECEIVING COPIES OF ATF FORM 3310.4 (REPORT OF MULTIPLE SALE OR OTHER DISPOSITION OF PISTOLS AND REVOLVERS)**

18 U.S.C. 923(g)(3)(B) provides that

Chief Law Enforcement Officers (CLEOs) receiving copies of ATF Form 3310.4 from FFLs for sales to non-prohibited persons may not disclose the contents of the forms and must destroy the forms and any record of the content of the forms within 20 days of receipt. This provision also requires CLEOs to certify in writing to the United States Attorney General every six months that no such disclosures have been made and that the forms on non-prohibited persons have been destroyed as required by law. CLEOs making this certification should send the certification to:

U.S. DEPARTMENT OF JUSTICE  
ATTN: MULTIPLE HANDGUN  
SALE FORM CERTIFICATIONS  
P.O. BOX 4278  
CLARKSBURG, WV 26302