

FOR PUBLIC RELEASE**GENERAL INFORMATION****TABLE OF CONTENTS****PAGE**

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GENERAL INFORMATION

Items of Interest

Editor's Note: This compilation does not purport to be complete. The rulings, industry circulars and procedures included in this publication are those considered to be of particular interest to licensees. The ATF Quarterly Bulletin contains all such documents.

1. 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 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 five 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 one 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). In addition, 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 one 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 one 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 Criminal Enforcement Office. Our telephone numbers are listed in the **"United States Government"** section of your telephone directory under the **"United States Treasury Department."**

2. INFORMATION ABOUT ATF

For assistance with applications, records, transactions, and other regulatory matters, contact your ATF Regulatory Enforcement office.

To refer information about criminal violations of Federal firearms laws and regulations, contact your ATF Criminal Enforcement 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 this 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.

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, 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. [18 U.S.C. 922(x)]

4. 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.

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, 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. Disposition to the officer is to be entered in your permanent record, and the certification letter kept in your files.

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 010**)

for sales of semiautomatic assault weapons and large capacity ammunition feeding devices to law enforcement officers.)

5. SALE OF FIREARMS TO ALIENS

IN THE UNITED STATES

ATF frequently receives questions about the legality of selling firearms to aliens. Some dealers have turned away foreign customers unnecessarily due to their uncertainty, while in a few cases Federal firearms licensees have made unlawful sales to aliens. The purpose of this Item of Interest is to clarify the status of aliens who wish to purchase firearms and to provide some of the exportation guidelines.

a. Domestic Sales

In order to purchase firearms in the United States, an alien must:

- (1) Be 18 years of age (21 for handguns);
- (2) Provide suitable identification;
- (3) Complete ATF Form 4473, Firearms Transaction Record;
- (4) Be a resident of the State in which the firearm purchase is made; and
- (5) 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 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 U.S. for many years will have to wait 90 days before purchasing a firearm if he changes his State of residence.

Alternative to the 90-day Standard

An alien legally in the United States and who has been authorized in writing by the principal officer of an embassy or consulate to purchase a firearm would be considered a resident of the State where the embassy or consulate is located for purposes of purchasing a firearm.

The Federal firearms licensee must attach the letter of authorization to the completed Form 4473 and retain it as part of the permanent records.

b. Export Sales

Removal of a firearm 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 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 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

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 COUNSELLING DIVISION

DEPARTMENT OF COMMERCE

WASHINGTON, DC 20230

TELEPHONE (202) 482-4811

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).

Licensees located near the Canadian border have asked ATF and ODTIC 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 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.

If the dealer performs this type of transaction more than occasionally, the dealer is required to register with ODTIC 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 ODTIC before exporting a rifle or a handgun anywhere other than to Canada. Application for an export license is made to ODTIC 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 ODTIC as an exporter on Form DSP-9 and payment of a registration fee, as follows:

1year.....	\$250
2years.....	\$500
3years.....	\$700
4years.....	\$850
5years.....	\$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; or
- (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 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.**

6. CANADIAN FIREARMS INFORMATION

[From the Canadian Firearms Policy Centre,
Ministry of the Solicitor General]

a. Bringing Firearms Into Canada

Handguns are Not Allowed Entry Into Canada.

Firearms are divided into 3 categories:

- (1) Prohibited;
- (2) Restricted; and
- (3) Long guns.

(1) **Prohibited firearms**, which have no legitimate sporting or recreational use, are not permitted entry into Canada. They include:

(a) Any firearm that is capable of firing bullets in rapid succession during one pressure of the trigger; and

(b) Any firearm that has been adapted from a rifle or shotgun so that it has a barrel of less than 46 cm (18 in.) in length or is less than 66 cm (26 in.) in overall length.

(2) **Restricted firearms** include:

(a) Any firearm designed, altered, or intended to be aimed and fired by the action of one hand, including handguns;

(b) Any firearm that has a barrel less than 47 cm (18-1/2 in.) in length capable of discharging centre fire ammunition in a semi-automatic manner; and

(c) Any firearm designed or adapted to be fired when reduced to a length of less than 66 cm (26 in.) by folding, telescoping, or otherwise.

Tourists or visitors travelling in or through Canada may not import restricted weapons. However, non-resident marksmen competing in a meet recognized by the Amateur Trap Shooting Association, Dominion of Canada Rifle Association or the National Skeet Shooting Association may import restricted weapons. A permit for this purpose may be secured in advance from a Canadian Local Registrar of Firearms. The issuance of these permits should be coordinated with the host club.

(3) **Long guns** may be imported, or moved in transit through Canada, without a permit, provided the visitor is 16 years of age or over and the firearm is for sporting or competition use. A long gun is a regular hunting rifle or shotgun as so described by the manufacturer, and one which does not fall into the category of a prohibited or restricted firearm.

Non-residents arriving at a Canada Customs port must declare all their firearms. Those who mistakenly believe they may bring restricted weapons into Canada will be given the opportunity to

export them. In the event that weapons are not declared, they will be seized and forfeited and criminal charges may be brought.

Pellet guns with a muzzle velocity of more than 152.5 metres (500 feet) per second are considered to be firearms and come under the above regulations. Those with a muzzle velocity of less than 152.5 metres (500 feet) per second are exempt.

For further information on the entry of firearms, please contact:

MINISTRY OF THE SOLICITOR GENERAL

FIREARMS POLICY CENTRE

340 LAURIER AVENUE WEST,

12TH FLOOR

OTTAWA, ONTARIO, CANADA K1A 0P8

b. Firearms In Canada's National Parks

Hunting Prohibited: Canada's National Parks

Firearms may not be carried in National Parks unless they are of a kind or model capable of being dismantled by taking apart and separating the barrel and stock and carried in a dismantled condition, or are carried in a closed case or wrapped and tied securely in such a manner as not to expose any part of the firearm. It is recommended that visitors contact Parks Canada, Ottawa, Ontario, Canada K1A 1G2, for further information.

c. Hunting In Canada--In General:

As hunting is governed by provincial laws, non-residents are required to obtain a hunting license from each province or territory in which they plan to hunt. In many of Canada's provincial parks and reserves and adjacent areas, the entry of any type of weapon is forbidden.

d. Firearms In British Columbia

A non-resident carrying a firearm in British Columbia, while not on an arterial or secondary highway, must have either a British Columbia firearms license or a hunting license.

7. 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 Part 178.

Section IV. NFA Firearms Classified as Curios or Relics Under the GCA: These weapons (e.g., machineguns), 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. The 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.

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 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 The 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 State of residence.**

8. 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."

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 substantially the same as those exempted under the GCA, except that replicas of firearms manufactured after 1898 are exempt from the Arms Export Control Act only if they have a matchlock,

flintlock, percussion cap or similar type of ignition system. No all-inclusive list of antique firearms is published by ATF.

9. OCCASIONAL IMPORTATION BY NONLICENSEES

a. Non-Military

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 & 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 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 execute and forward the 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. 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 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 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)] 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 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 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.

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 three 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 can be seen below, with minor adjustment to reflect 1986 legislative changes]

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 (as opposed to license to purchase) 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]

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 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 ANNUAL TYPE OF SPECIAL ACTIVITY TAX FIREARMS

TAX COVERED AMOUNT 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 5630.5, 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 371993M

PITTSBURGH, PENNSYLVANIA 15250-7993

Upon receipt of your properly completed ATF Form 5630.5, 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 5630.5 advising us of that change. You may accomplish this easily by attaching ATF F 5630.5 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) 927-8320 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 doesn't 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 he does, in fact, have jurisdiction where the transferee resides.

All ATF Form 4 applications must be accompanied by two (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. Machineguns

Machineguns 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

If you, as a Special (Occupational) Taxpayer, decide not to renew your payment of the special tax, all firearms 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) 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 dealer in NFA firearms, you may, **if you are a sole proprietorship**, retain those weapons imported or manufactured prior to May 19, 1986, the effective date of 18 U.S.C. 922(o). You should note your acquisition/disposition book to show that the weapon(s) are now in your possession as an individual. These firearms may only be transferred to approved law enforcement/government agencies as sales samples. **These provisions allowing retention of weapons manufactured prior to May 19, 1986, do not apply to corporations or partnerships.**

CAUTION

The taxfree acquisition of NFA firearms for the SOLE purpose of enhancing one's own personal collection constitutes tax fraud. [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, 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

11. MOVING REGISTERED NFA FIREARMS

INTERSTATE

Anyone other than a Federal firearms licensee must apply to ATF for permission to move his/her Federally registered machinegun, short-barreled shotgun, short-barreled rifle, or destructive device interstate. Only after the individual receives ATF approval can the firearm be taken into another State, even for a short period of time. ATF Form 5320.20, Application to Transport Interstate or Temporarily Export Certain NFA Firearms, can be used for this purpose.

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 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

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:

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 machineguns or other NFA firearms.

13. 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.

14. NFA FIREARMS IN DECEDENT'S ESTATES

Possession of an NFA firearm not registered to the possessor is a violation of Federal law and the weapon 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 administrator of an estate to transfer firearms registered to a decedent. ATF Forms 5 are used in applying for the tax-exempt transfer of the firearm 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. If the heir is prohibited by any law from receiving or possessing the firearm, the transfer application would be disapproved.

When a firearm is being transferred to an individual, the transferee's fingerprints on FBI Forms FD-258 must accompany the transfer application.

For further information, contact:

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

NATIONAL FIREARMS ACT BRANCH

WASHINGTON, DC 20226

(202) 927-8330

15. "STRAW PURCHASES"

Questions have arisen concerning the lawfulness of firearms purchases from licensees by persons who use "straw purchasers" (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.

This article does not purport to cover sales to persons who purchase firearms with the intent of making gifts of such firearms to other persons. In instances such as this, the person making the purchase is indeed the true purchaser. There is no straw purchaser in these instances. 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 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, 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 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.

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 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.

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

18 U.S.C. 922(r) 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."

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 **1-800-800-3855**. The hotline is operational 24 hours a day, 7 days a week. The caller should indicate that he is a Federal firearms licensee and be ready to furnish his 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.

This was last updated on August 25, 1998