

From the U.S. Code Online via GPO Access
[wais.access.gpo.gov]
[Laws in effect as of January 7, 2003]
[Document not affected by Public Laws enacted between
January 7, 2003 and February 12, 2003]
[CITE: **26USC5801**]

TITLE 26--INTERNAL REVENUE CODE

Subtitle E--Alcohol, Tobacco, and Certain Other Excise Taxes

CHAPTER 53--MACHINE GUNS, DESTRUCTIVE DEVICES, AND CERTAIN OTHER
FIREARMS

Subchapter A--Taxes

PART I--SPECIAL (OCCUPATIONAL) TAXES

Sec. 5801. Imposition of tax

(a) General rule

On 1st engaging in business and thereafter on or before July 1 of each year, every importer, manufacturer, and dealer in firearms shall pay a special (occupational) tax for each place of business at the following rates:

- (1) Importers and manufacturers: \$1,000 a year or fraction thereof.
- (2) Dealers: \$500 a year or fraction thereof.

(b) Reduced rates of tax for small importers and manufacturers

(1) In general

Paragraph (1) of subsection (a) shall be applied by substituting ``\$500'' for ``\$1,000'' with respect to any taxpayer the gross receipts of which (for the most recent taxable year ending before the 1st day of the taxable period to which the tax imposed by subsection (a) relates) are less than \$500,000.

(2) Controlled group rules

All persons treated as 1 taxpayer under section 5061(e)(3) shall be treated as 1 taxpayer for purposes of paragraph (1).

(3) Certain rules to apply

For purposes of paragraph (1), rules similar to the rules of subparagraphs (B) and (C) of section 448(c)(3) shall apply.

(Added Pub. L. 90-618, title II, Sec. 201, Oct. 22, 1968, 82 Stat. 1227; amended Pub. L. 100-203, title X, Sec. 10512(g)(1), Dec. 22, 1987, 101 Stat. 1330-449.)

Prior Provisions

A prior section 5801, acts Aug. 16, 1954, ch. 736, 68A Stat. 721; Sept. 2, 1958, Pub. L. 85-859, title II, Sec. 203(a), 72 Stat. 1427; June 1, 1960, Pub. L. 86-478, Sec. 1, 74 Stat. 149, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 90-618.

Amendments

1987--Pub. L. 100-203 substituted ``Imposition of tax'' for ``Tax'' in section catchline and amended text generally. Prior to amendment, text read as follows: ``On first engaging in business and thereafter on or before the first day of July of each year, every importer, manufacturer, and dealer in firearms shall pay a special (occupational) tax for each place of business at the following rates:

- ``(1) Importers.--\$500 a year or fraction thereof;
- ``(2) Manufacturers.--\$500 a year or fraction thereof;
- ``(3) Dealers.--\$200 a year or fraction thereof.

Except an importer, manufacturer, or dealer who imports, manufactures, or deals in only weapons classified as `any other weapon' under section 5845(e), shall pay a special (occupational) tax for each place of business at the following rates: Importers, \$25 a year or fraction thereof; manufacturers, \$25 a year or fraction thereof; dealers, \$10 a year or fraction thereof."

Effective Date of 1987 Amendment

Amendment by Pub. L. 100-203 effective Jan. 1, 1988, see section 10512(h) of Pub. L. 100-203, set out as an Effective Date note under section 5081 of this title.

Effective Date

Section 207 of Pub. L. 90-618, as amended by Pub. L. 99-514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

``(a) Section 201 of this title [enacting this chapter] shall take effect on the first day of the first month following the month in which it is enacted [October 1968].

``(b) Notwithstanding the provisions of subsection (a) or any other provision of law, any person possessing a firearm as defined in section 5845(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by this title) which is not registered to him in the National Firearms Registration and Transfer Record shall register each firearm so possessed with the Secretary of the Treasury or his delegate in such form and manner as the Secretary or his delegate may require within the thirty days immediately following the effective date of section 201 of this Act [see subsec. (a) of this section]. Such registrations shall become a part of the National Firearms Registration and Transfer Record required to be maintained by section 5841 of the Internal Revenue Code

of 1986 (as amended by this title). No information or evidence required to be submitted or retained by a natural person to register a firearm under this section shall be used, directly or indirectly, as evidence against such person in any criminal proceeding with respect to a prior or concurrent violation of law.

“(c) The amendments made by sections 202 through 206 of this title [amending sections 6806 and 7273 of this title, repealing sections 5692 and 6107 of this title, and enacting provisions set out as a note under this section] shall take effect on the date of enactment [Oct. 22, 1968].

“(d) The Secretary of the Treasury, after publication in the Federal Register of his intention to do so, is authorized to establish such period of amnesty, not to exceed ninety days in the case of any single period, and immunity from liability during any such period, as the Secretary determines will contribute to the purposes of this title [adding this chapter, and sections 6806 and 7273 of this title, repealing sections 5692 and 6107 of this title, and enacting provisions set out as notes under this section].”

Section Referred to in Other Sections

This section is referred to in sections 5846, 5851, 5861 of this title.

Sec. 5802. Registration of importers, manufacturers, and dealers

On first engaging in business and thereafter on or before the first day of July of each year, each importer, manufacturer, and dealer in firearms shall register with the Secretary in each internal revenue district in which such business is to be carried on, his name, including any trade name, and the address of each location in the district where he will conduct such business. An individual required to register under this section shall include a photograph and fingerprints of the individual with the initial application. Where there is a change during the taxable year in the location of, or the trade name used in, such business, the importer, manufacturer, or dealer shall file an application with the Secretary to amend his registration. Firearms operations of an importer, manufacturer, or dealer may not be commenced at the new location or under a new trade name prior to approval by the Secretary of the application.

(Added Pub. L. 90-618, title II, Sec. 201, Oct. 22, 1968, 82 Stat. 1227; amended Pub. L. 94-455, title XIX, Sec. 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 103-322, title XI, Sec. 110301(b), Sept. 13, 1994, 108 Stat. 2012.)

Prior Provisions

A prior section 5802, act Aug. 16, 1954, ch. 736, 68A Stat. 721, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 90-618.

A prior section 5803, act Aug. 16, 1954, ch. 736, 68A Stat. 722, made a cross reference to section 5812 exempting certain transfers,

prior to the general revision of this chapter by Pub. L. 90-618.

Amendments

1994--Pub. L. 103-322 inserted after first sentence ``An individual required to register under this section shall include a photograph and fingerprints of the individual with the initial application."

1976--Pub. L. 94-455 struck out ``or his delegate" after ``Secretary" wherever appearing.

Section Referred to in Other Sections

This section is referred to in sections 5861, 7012 of this title.

PART II--TAX ON TRANSFERRING FIREARMS

Sec. 5811. Transfer tax

(a) Rate

There shall be levied, collected, and paid on firearms transferred a tax at the rate of \$200 for each firearm transferred, except, the transfer tax on any firearm classified as any other weapon under section 5845(e) shall be at the rate of \$5 for each such firearm transferred.

(b) By whom paid

The tax imposed by subsection (a) of this section shall be paid by the transferor.

(c) Payment

The tax imposed by subsection (a) of this section shall be payable by the appropriate stamps prescribed for payment by the Secretary.

(Added Pub. L. 90-618, title II, Sec. 201, Oct. 22, 1968, 82 Stat. 1228; amended Pub. L. 94-455, title XIX, Sec. 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

Prior Provisions

A prior section 5811, acts Aug. 16, 1954, ch. 736, 68A Stat. 722; Sept. 2, 1958, Pub. L. 85-859, title II, Sec. 203(b), 72 Stat. 1427; June 1, 1960, Pub. L. 86-478, Sec. 2, 74 Stat. 149, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 90-618.

Amendments

1976--Subsec. (c). Pub. L. 94-455 struck out ``or his delegate" after ``Secretary".

Effective Date

Section effective on first day of first month following October 1968, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

Section Referred to in Other Sections

This section is referred to in sections 4182, 5846, 5852 to 5854 of this title.

Sec. 5812. Transfers

(a) Application

A firearm shall not be transferred unless (1) the transferor of the firearm has filed with the Secretary a written application, in duplicate, for the transfer and registration of the firearm to the transferee on the application form prescribed by the Secretary; (2) any tax payable on the transfer is paid as evidenced by the proper stamp affixed to the original application form; (3) the transferee is identified in the application form in such manner as the Secretary may by regulations prescribe, except that, if such person is an individual, the identification must include his fingerprints and his photograph; (4) the transferor of the firearm is identified in the application form in such manner as the Secretary may by regulations prescribe; (5) the firearm is identified in the application form in such manner as the Secretary may by regulations prescribe; and (6) the application form shows that the Secretary has approved the transfer and the registration of the firearm to the transferee. Applications shall be denied if the transfer, receipt, or possession of the firearm would place the transferee in violation of law.

(b) Transfer of possession

The transferee of a firearm shall not take possession of the firearm unless the Secretary has approved the transfer and registration of the firearm to the transferee as required by subsection (a) of this section.

(Added Pub. L. 90-618, title II, Sec. 201, Oct. 22, 1968, 82 Stat. 1228; amended Pub. L. 94-455, title XIX, Sec. 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

Prior Provisions

A prior section 5812, act Aug. 16, 1954, ch. 736, 68A Stat. 722, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 90-618.

A prior section 5813, act Aug. 16, 1954, ch. 736, 68A Stat. 723, related to the affixing of the required stamps to the order form for the firearm, prior to the general revision of this chapter by Pub. L. 90-618.

A prior section 5814, acts Aug. 16, 1954, ch. 736, 68A Stat. 723; Sept. 2, 1958, Pub. L. 85-859, title II, Sec. 203(c), 72 Stat. 1427, related to the order forms required for the transfer of a firearm, prior to the general revision of this chapter by Pub. L. 90-618.

Amendments

1976--Subsecs. (a), (b). Pub. L. 94-455 struck out ``or his delegate" after ``Secretary" wherever appearing.

Section Referred to in Other Sections

This section is referred to in title 18 section 922.

PART III--TAX ON MAKING FIREARMS

Sec. 5821. Making tax

(a) Rate

There shall be levied, collected, and paid upon the making of a firearm a tax at the rate of \$200 for each firearm made.

(b) By whom paid

The tax imposed by subsection (a) of this section shall be paid by the person making the firearm.

(c) Payment

The tax imposed by subsection (a) of this section shall be payable by the stamp prescribed for payment by the Secretary.

(Added Pub. L. 90-618, title II, Sec. 201, Oct. 22, 1968, 82 Stat. 1228; amended Pub. L. 94-455, title XIX, Sec. 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

Prior Provisions

A prior section 5821, acts Aug. 16, 1954, ch. 736, 68A Stat. 724; Sept. 2, 1958, Pub. L. 85-859, title II, Sec. 203(d), 72 Stat. 1427, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 90-618.

Amendments

1976--Subsec. (c). Pub. L. 94-455 struck out ``or his delegate" after ``Secretary".

Effective Date

Section effective on first day of first month following October 1968, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

Section Referred to in Other Sections

This section is referred to in sections 5846, 5852, 5853 of this title.

Sec. 5822. Making

No person shall make a firearm unless he has (a) filed with the Secretary a written application, in duplicate, to make and register the firearm on the form prescribed by the Secretary; (b) paid any tax payable on the making and such payment is evidenced by the proper stamp affixed to the original application form; (c) identified the firearm to be made in the application form in such manner as the Secretary may by regulations prescribe; (d) identified himself in the application form in such manner as the Secretary may by regulations prescribe, except that, if such person is an individual, the identification must include his fingerprints and his photograph; and (e) obtained the approval of the Secretary to make and register the firearm and the application form shows such approval. Applications shall be denied if the making or possession of the firearm would place the person making the firearm in violation of law.

(Added Pub. L. 90-618, title II, Sec. 201, Oct. 22, 1968, 82 Stat. 1228; amended Pub. L. 94-455, title XIX, Sec. 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

Prior Provisions

A prior section 5831, act Aug. 16, 1954, ch. 736, 68A Stat. 724, made a cross reference to section 4181 of this title relating to an excise tax on pistols, revolvers, and firearms, prior to the general revision of this chapter by Pub. L. 90-618, title II, Sec. 201, Oct. 22, 1968, 82 Stat. 1227.

Amendments

1976--Pub. L. 94-455 struck out ``or his delegate" after ``Secretary".