

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU (TTB)

Supporting Statement – Information Collection Request

OMB Control Number – To Be Assigned

Records to support tax free and tax overpayment sales of firearms and ammunition

**A. JUSTIFICATION**

**1. What are the circumstances that make this collection of information necessary and what legal or administrative requirements necessitate the collection?**

Section 4181 of the Internal Revenue Code (26 U.S.C. 4181) imposes a tax on the sale of firearms and ammunition. Under 26 U.S.C. 4221(a) and TTB regulations (27 CFR 53.131) certain sales are tax-free sales. These include sales:

- (1) for use by the purchaser for further manufacture, or for resale by the purchaser to a second purchaser for further manufacture,
- (2) for export, or for resale by the purchaser to a second purchaser for export,
- (3) for use by the purchaser as supplies for vessels or aircraft, and
- (4) to a State or local government for the exclusive use of a State or local government.

Similarly, where the tax under 26 U.S.C. 4181 has been paid, the tax paid is considered an overpayment in the four circumstances listed above under 26 U.S.C. 6416(b)(2) and (3).

In order to protect the revenue, TTB regulations prescribe that manufacturers maintain records supporting the tax free nature of these sales. Each applicable section of the TTB regulations, specifies what information must be maintained in those records, and provides a nonmandatory form which, when completed, provides all the necessary information needed to be maintained.

These regulations and their respective forms are:

- For further manufacture – 27 CFR 53.132(c), TTB F 5600.37
- For export – 27 CFR 53.133(d), TTB F 5600.36
- For supplies for vessels or aircraft – 27 CFR 53.134(d), TTB F 5600.34
- To State and local governments – 27 CFR 53.135(c), TTB F 5600.35.

Under 27 CFR 53.179, records are also required to be maintained to support a claim for credit or refund of an overpayment. TTB F 5600.33 Statement of Ultimate Vendor is a nonmandatory form that provides all necessary information under § 53.179.

**2. How, by whom and for what purpose is this information used?**

The records maintained by the Industry Member (IM) to document the tax free nature of the sale, or to support a claim for credit or refund of an overpayment. TTB may examine these records during investigations or audits of the IM to confirm the correct payment of taxes.

**3. To what extent does this collection of information involve the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology? What consideration is given to use information technology to reduce burden?**

The records are required to be maintained by the IM. TTB will consider automated collection techniques used by the IM if such techniques are adequate to protect the revenue.

**4. What efforts are used to identify duplication? Why can't similar information already available be used or modified for use for the purposes described in Item 2 above?**

The regulations specify what information the records must contain and specifically authorize the use of non-TTB forms such as invoices, statements, bills of lading, certificates of landing, and other documents where appropriate.

**5. If this collection of information impacts small businesses or other small entities, what methods are used to minimize burden?**

All applicants regardless of size are required by regulation to maintain these records in order to protect the revenue. TTB provides nonmandatory forms to assist all businesses, large or small, in meeting the recordkeeping requirement.

**6. What consequences to Federal program or policy activities and what, if any, technical or legal obstacles to reducing burden will occur if this collection is not conducted or is conducted less frequently?**

Less frequent recordkeeping would reduce the likelihood that the IM will have sufficient information to support its non-payment of taxes, and thus jeopardize the revenue.

**7. Are there any special circumstances associated with the information collection?**

There are no special circumstances associated with this information collection.

**8. What effort was made to notify the general public about this collection of information?**

A 60-day Federal Register notice was published for this information collection on Tuesday, September 11, 2007, 72 FR 51904. The notice solicited comments from the general public. TTB received no comments.

**9. What decision was made to provide any payment or gift to respondents, or than re-enumeration of contractors or grantees?**

No payment or gift is associated with this collection.

**10. What assurance of confidentiality was provided to respondents and what was the basis for the assurance in statute, regulations, or agency policy?**

The information is maintained by the IM and only requested by TTB as needed. The confidentiality of any information collected during an investigation or audit is protected by 26 U.S.C. 6103.

**11. What justification is there for question of a sensitive nature?**

No questions of a sensitive nature are asked.

**12. What is the estimated hour burden of this collection of information?**

Records which meet the regulatory requirements collected in the normal course of business impose no additional burden. It is estimated that 7,000 respondents will prepare 10 TTB forms each to support the non-payment or overpayment of excise tax. The average time to prepare each form is .75 hour per form.

That would be a total of 52,500 annual burden hours.

**13. What is the estimated total annual cost burden to respondents or record keepers resulting from this collection of information?**

No cost is associated with this collection.

**14. What is the annualized cost to the Federal government?**

Estimates of annual cost to the Federal government are as follows:

Printing	\$5,300.00
Distribution	500.00
Clerical Cost	100.00
Other Salary (review, supervisory, etc)	<u>200.00</u>
	\$6,100.00

**15. What is the reason for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I?**

There is a program change because this information collection has never received OMB approval.

**16. Outline plans for tabulation and publication for collection of information whose results will be published.**

The results of this collection of information will not be published.

**17. If seeking approval to not display the expiration date for OMB approval of this information collection, what are the reasons that the display would be inappropriate?**

We will display the expiration date of OMB approval for these forms.

**18. What are the exceptions to the certification statement?**

There are no exceptions to the certification statement.

**B. This collection does not employ statistical methods.**

This collection does not employ statistical methods.