

DEPARTMENT OF JUSTICE
BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

Information Collection Request
Supporting Statement

OMB 1140-0015 ATF Form 5 (5320.5)
Application for Tax Exempt Transfer
and Registration of Firearm

A. JUSTIFICATION

1. The ATF Form 5 (5320.5) is required to apply for the transfer and registration of a National Firearms Act (NFA) firearm. Under the provisions of 26 U.S.C. § 5812, an NFA firearm shall not be transferred until the transferor has applied for and received approval from the Attorney General of the United States (delegated to ATF) and paid the applicable transfer tax. The transfer of an NFA firearm is subject to a tax of \$200 or \$5 (for a firearm classified as an "any other weapon") as established by § 5811. Exemptions from payment of the transfer tax are provided by §§ 5852 and 5853.

The statutory requirements are implemented in §§ 479.81 through 479.86 and §§ 479.89 through 479.91, Title 27, Code of Federal Regulations.

Exemptions from the payment of the transfer tax are provided for the transfer of an NFA firearm to the United States (§§ 5852(a) and 479.89); to a State or local agency (§§ 5853(a) and 479.90); and of an unserviceable firearm (§§ 5852(e) and 479.91). ATF also uses the Form 5 to effect a transfer resulting from operation of law, for example, a firearm in an estate being transferred to a beneficiary or a firearm being transferred as a result of a bankruptcy. ATF also uses the form 5 for the temporary transfer of a firearm for repair and its subsequent return. The claim to entitlement for each specific exemption is contained on the Form 5 application.

The Transferee's Certification on the reverse of the application form satisfies the requirements of 18 U.S.C. 922(b)(4) and 27 CFR 478.98. The Law

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Enforcement Certification on the reverse of the application satisfies the requirements of § 5812 and § 479.85.

2. The information on this form is used by NFA Branch personnel to determine the legality of the application under Federal, State and local law. Section 5812 provides that an application shall not be approved if the receipt or possession would place the person receiving the firearm in violation of law. Section 5811 imposes a tax upon the transfer of an NFA firearm. The form is used by applicants to qualify their claim for exemption from the payment of transfer tax as provided by §§ 5852 and 5853.

The application is submitted in duplicate. The approval of the application effectuates the registration of the firearm to the transferee. Both copies of the application are noted to reflect the approval - one copy is returned to the applicant for transmission to the transferee as proof of registration and the other is retained by ATF as part of the National Firearms Registration and Transfer Record. The information is used to verify any subsequent transfer and registration of the firearm. In addition, registration information used to determine the non-registration of a firearm, a violation as specified in § 5861.

3. The form is available on the ATF website to download and print. Two copies with original signatures, photo and fingerprints must be submitted to ATF. In certain situations where the application is not accompanied by fingerprints and photographs the form may be submitted by fax provided that the transferor has filed an affidavit with the NFA Branch.
4. ATF uses a uniform subject classification system to identify duplication and to ensure that any similar information already available cannot be used or modified for use for the purpose of this information collection.

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5. The information on this form is unique to the person supplying it and would have minimal or no impact on small businesses or other small entities.
6. If this information collection was not conducted the consequences would be that of the possibility of firearms being transferred to persons that are prohibited from receiving firearms.
7. This collection is conducted in a manner consistent with the requirement in 5 CFR 1320.6.
8. The ATF industry liaison consulted with the firearms industry during the creation of the form. A 60-day and 30-day Federal Register notice was published in order to solicit comments from the public. No comments were received.
9. No provide payment or gift is associated with this collection.
10. Confidentiality is not assured. The information from this application may only be disclosed to Federal authorities for purposes of prosecution for violation of the National Firearms Act. The information is kept in a secured location.
11. Questions of a sensitive nature are included on the form. These relate to the qualifications of the transferee, such as whether the transferee has been convicted of any crime, is a fugitive from justice, is a drug user, is an illegal alien, etc. This information is needed to determine whether the transferee is prohibited by Federal law from possessing firearms.
12. There are 7,888 respondents. The form is designed under certain circumstances, to allow the transfer of more than one firearm in the same year. The total annual responses are 94,974. It takes 4 hours to complete the form. The total annual burden for this collection is 379, 896.

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13. It is estimated that half of the responses are submitted by mail. Therefore, the total annual cost for this collection is \$20,894.28 ($47,487 \times .44 = \$20,894.28$).
14. The estimate of annual cost to the Federal Government is as follows:
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|--------------|------------|
| Printing | \$750 |
| Distribution | <u>400</u> |
| Total | \$1165 |
15. The cost to the respondent for the previous submission is an error. The cost shows 17,570,000 the cost should be 17,570. The error has been corrected. The postage cost to the respondent has increased. The annual cost for this information collection is \$20,894. The result is an increase of 3,324.
16. The results of this collection will not be published.
17. ATF does not request approval to not display the expiration date of the OMB approval for this collection.
18. There are no exceptions to the certification statement.

Collections of Information Employing Statistical Methods

None