

10. Law Enforcement Certification (See instruction 2g)

I am satisfied that the fingerprints and photographs accompanying this form are those of the person identified on the form.
 I certify that I am the chief law enforcement officer of the organization named below having jurisdiction in the area of residence of _____
 (Name of maker)

I have no information that **Possession of the firearm described in Item 4 on the Front of this Form would place the maker in Violation of State or Local Law.**

 (Signature of Chief Law Enforcement Officer) (Printed name) (Title and agency name)

 (Street address, city, State and zip code)

 (Telephone Number) (Date)

By (if delegated authority to sign for the chief law enforcement official):

 (Signature) (Printed name) (Title and agency name)

 (Street address, city, State and zip code)

 (Telephone Number) (Date)

Maker's Certification

A maker who is an individual must complete this Section.

11. Answer questions 11.a. through 11.j. Answer questions 13 through 16 if applicable. For any YES answer (other than for 11.i.), the applicant shall provide details on a separate sheet. (See instructions 7c and definitions)

| | Yes | No | 12. Photograph |
|---|-----|----|--|
| a. Are you under indictment or information in any court for a felony, or any other crime, for which the judge could imprison you for more than one year? | | | Affix Recent Photograph Here (Approximately 2" x 2") (See instruction 2e) |
| b. Have you ever been convicted in any court for a felony, or any other crime, for which the judge could imprison you for than one year, even if you received a shorter sentence including probation? | | | |
| c. Are you a fugitive from justice? | | | |
| d. Are you an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance? | | | |
| e. Have you ever been adjudicated mentally defective (which includes a determination by a court, board, commission, or other lawful authority that you are a danger to yourself or others or are incompetent to manage your own affairs) OR have you ever been committed to a mental institution? | | | |
| f. Have you been discharged from the Armed Forces under dishonorable conditions? | | | |
| g. Are you subject to a court order restraining you from harassing, stalking, or threatening your child or an intimate partner or child of such partner? | | | |
| h. Have you ever been convicted in any court of a misdemeanor crime of domestic violence? | | | |
| i. Are you a United States citizen? | | | |
| j. Have you ever renounced your United States citizenship? | | | |

If you answered "NO" to question 11.i., please answer questions 13, 14, 15 and 16.

13. Answer questions 13.a. through 13.b., and 14 by checking or marking "Yes or "No" or "NA" in the boxes to the right of the questions.

| | Yes | No |
|--|-----|----|
| a. Are you an alien Illegally in the United States? | | |
| b. Are you an alien admitted to the United States under a nonimmigrant visa? * If the answer is "NO", do not respond to question 14 and proceed to questions 15 and 16. | | |
| 14. If you are an alien admitted to the United States under a nonimmigrant visa, do you fall within any of the exceptions set forth in the instructions (see definition 2.u.)? If the answer is "YES", a copy of the Documentation must be attached to the Application. <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A | | |

15. What is your country of Citizenship if other than the United States? (Specify Country)

16. If you are not a Citizen of the United States, what is your U.S.-issued alien number or admission number?

CERTIFICATION: Under penalties imposed by 26 U.S.C. 5861, I certify that the statements contained in this Certification, and any attached documents in support thereof, are true and correct to the best of my knowledge and belief.

 Signature of Maker Date

Instructions

1. Definitions.

- a. **National Firearms Act (NFA).** Title 26, United States Code, Chapter 53. The implementing regulations are found in Title 27, Code of Federal Regulations, Part 479.
- b. **Gun Control Act (GCA).** Title 18, United States Code, Chapter 44. The implementing regulations are found in Title 27, Code of Federal Regulations, Part 478.
- c. **Firearm.** The term “firearm” means: (1) a shotgun having a barrel or barrels of less than 18 inches in length; (2) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (3) a rifle having a barrel or barrels of less than 16 inches in length; (4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (5) any other weapon, as defined in 18 U.S.C. 5845(e); (6) a machinegun; (7) a muffler or a silencer for any firearm whether or not such firearm is included within this definition; and (8) a destructive device.
- d. **Person.** A partnership, company, association, trust, corporation, including each responsible person associated with such an entity, or an estate, or an individual.
- e. **Employer Identification Number (EIN).** Required of taxpayer filing special (occupational) tax returns under 27 CFR § 479.35.
- f. **Special (Occupational) Tax.** Required by the NFA to be paid by a Federal firearms licensee engaged in the business of manufacturing (Class 2), importing (Class 1), or dealing (Class 3) in NFA firearms.
- g. **Federal Firearms License.** A license issued under the provisions of the GCA to manufacture, import or deal in firearms.
- h. **ATF Officer.** An officer or employee of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) authorized to perform any function relating to the administration of the NFA.
- i. **Make.** The term “make”, and the various derivatives of such word, shall include manufacturing (other than by one qualified to engage in such business under the NFA), putting together, altering, any combination of these, or otherwise producing a firearm.
- j. **Misdemeanor Crime of Domestic Violence.** A crime that is a misdemeanor under Federal or State law and has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian. The term includes all misdemeanors that involve the use or attempted use of physical force (e.g., simple assault, assault and battery), if the offense is committed by one of the defined parties. The person is NOT considered to have been convicted of such crime unless the person was represented by a lawyer or gave up the right to a lawyer, and, if the person was entitled to a jury trial, was tried by a jury or gave up the right to a jury trial.
- k. **Reactivation.** The restoration of a registered unserviceable NFA firearm to a functional condition. This action incurs the making tax liability.
- l. **Unserviceable Firearm.** One which is incapable of discharging a shot by means of an explosive and incapable of being readily restored to firing condition. An acceptable method of rendering most firearms unserviceable is to fusion weld the chamber closed and fusion weld the barrel solidly to the frame.
- m. **Responsible Person.** (a) In the case of a trust, any individual, including any grantor, trustee, or beneficiary, who possesses, directly or indirectly, the power or authority under any trust instrument or other document, or under State law, to receive, possess, ship, transport, deliver, transfer, or otherwise dispose of a firearm; (b) In the case of a partnership, any individual, including any partner or manager, who possesses, directly or indirectly, the power or authority under any contract, agreement, article,

- certificate, bylaw, or instrument, or under State law, to direct the management and policies of the partnership to receive, possess, ship, transport, deliver, transfer, or otherwise dispose of a firearm for, or on behalf of the partnership; (c) In the case of an association, any individual, including any member, officer, director, board member, owner, or manager, who possesses, directly or indirectly, the power or authority under any contract, agreement, article, certificate, bylaw, or instrument, or under State law, to direct the management and policies of the association to receive, possess, ship, transport, deliver, transfer, or otherwise dispose of a firearm for, or on behalf of, the association; (d) In the case of a company (including a Limited Liability Company (LLC)), any individual, including any member, officer, director, board member, owner, shareholder, or manager, who possesses, directly or indirectly, the power or authority under any contract, agreement, article, certificate, bylaw, or instrument, or under State law, to direct the management and policies of the company to receive, possess, ship, transport, deliver, transfer, or otherwise dispose of a firearm for, or on behalf of, the company; and (e) In the case of a corporation, any individual, including any officer, director, board member, owner, shareholder, or manager, who possesses, directly or indirectly, the power or authority under any contract, agreement, article, certificate, bylaw, or instrument, or under State law, to direct the management and policies of the corporation to receive, possess, ship, transport, deliver, transfer, or otherwise dispose of a firearm for, or on behalf of, the corporation.
- n. **Maker.** A person applying to make an NFA firearm.
- o. **Prohibited Person.** Generally, 18 U.S.C. § 922 prohibits the shipment, transportation, receipt, or possession in or affecting interstate commerce of a firearm by one who: has been convicted of a misdemeanor crime of domestic violence; has been convicted of a felony, or any other crime, punishable by imprisonment for a term exceeding one year (this does not include State misdemeanors punishable by imprisonment of two years or less); is a fugitive from justice; is an unlawful user of, or addicted to, marijuana or any depressant, stimulant, or narcotic drug, or any other controlled substance; has been adjudicated mentally defective or has been committed to a mental institution; has been discharged from the Armed Forces under dishonorable conditions; has renounced his or her U.S. citizenship; is an alien illegally in the United States or an alien admitted to the United States under a nonimmigrant visa; or is subject to certain restraining orders. Furthermore, Section 922 prohibits the shipment, transportation, or receipt in or affecting interstate commerce of a firearm by one who is under indictment or information for a felony, or any other crime, punishable by imprisonment for a term exceeding one year.
- p. **Under Indictment or Information or Conviction in any Court.** An indictment, information, or conviction in any Federal, State, or local court. An information is a formal accusation of a crime verified by a prosecutor.

EXCEPTION: A person who has been convicted of a felony, or any other crime, for which the judge could have imprisoned the person for more than one year, or who has been convicted of a misdemeanor crime of domestic violence, is not prohibited from purchasing, receiving, or possessing a firearm if: (1) under the law of the jurisdiction where the conviction occurred, the person has been pardoned, the conviction has been expunged or set aside, or the person has had their civil rights (the right to vote, sit on a jury, and hold public office) taken away and later restored AND (2) the person is not prohibited by the law of the jurisdiction where the conviction occurred from receiving or possessing firearms. Persons subject to this exception should mark “no” in the applicable box.

- q. **Adjudicated Mentally Defective.** A determination by a court, board, commission, or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease: (1) is a danger to himself or to others; or (2) lacks the mental capacity to contract or manage his own affairs. This term shall include: (1) a finding of insanity by a court in a criminal case; and (2) those persons found incompetent to stand trial or found not guilty by reason of lack of mental responsibility.

Instructions (Continued)

- r. **Committed to a Mental Institution.** A formal commitment of a person to a mental institution by a court, board, commission, or other lawful authority. The term includes a commitment to a mental institution involuntarily. The term includes commitment for mental defectiveness or mental illness. It also includes commitments for other reasons, such as for drug use. The term does not include a person in a mental institution for observation or a voluntary admission to a mental institution.

EXCEPTION: A person who has been adjudicated as a mental defective or committed to a mental institution is not prohibited if: (1) the person was adjudicated or committed by a Department or agency of the Federal Government and (2) either; (a) the person's adjudication or commitment for mental incompetency was set-aside or expunged by the adjudicating/committing agency; (b) the person has been fully released or discharged from all mandatory treatment, supervision, or monitoring by the agency; or (c) the person was found by the agency to no longer suffer from the mental health condition that served as the basis of the initial adjudication. Persons who fit this exception should mark "no" in the applicable box. This exception does not apply to any person who was adjudicated to be not guilty by reason of insanity, or based on lack of mental responsibility, or found incompetent to stand trial, in any criminal case or under the Uniform Code of Military Justice.

- s. **Restraining Order.** Under 18 U.S.C. § 922, firearms may not be sold to or received by persons subject to a court order that: (A) was issued after a hearing which the person received actual notice of and had an opportunity to participate in; (B) restrains such person from harassing, stalking, or threatening an intimate or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and (C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or (ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury. An "intimate partner" of a person is: the spouse or former spouse of the person, the parent of a child of the person, or an individual who cohabitates or is cohabitating with the person.

- t. **Misdemeanor Crime of Domestic Violence.** A Federal, State, local, tribal offense that is a misdemeanor under Federal, State, or tribal law and has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person cohabitating with, or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim. The term includes all misdemeanors that have as an element the use or attempted use of physical force or the threatened use of a deadly weapon (e.g., assault and battery), if the offense is committed by one of the defined parties. (See Exception in the definition of "Under Indictment or Information or Conviction in any Court"). A person who has been convicted of a misdemeanor crime of domestic violence also is not prohibited unless: (1) the person was represented by a lawyer or gave up the right to a lawyer; or (2) if the person was entitled to a jury, was tried by a jury, or gave up the right to a jury trial. Persons subject to this exception should mark "no" in the applicable box.

- u. **Alien Admitted to the United States Under a Nonimmigrant Visa.** An alien admitted to the United States under a nonimmigrant visa includes, among others, persons visiting the United States temporarily for business or pleasure, persons studying in the United States who maintain a residence abroad, and certain temporary foreign workers. The definition does not include permanent resident aliens nor does it apply to nonimmigrant aliens admitted to the United States pursuant to either the Visa Waiver Program or to regulations otherwise exempting them from visa requirements. An alien admitted to the United States under a nonimmigrant visa is not prohibited from purchasing, receiving, or possessing a firearm if the alien: (1) is in possession of a hunting license or permit lawfully issued by the Federal Government, a State, or local government, or an Indian tribe federally recognized by the Bureau of Indian Affairs, which is valid and unexpired; (2) was admitted to the United States for lawful hunting or sporting purposes; (3) is an official representative of a foreign government who is accredited to the United States Government or the Government's mission to an international organization having its headquarters in the United States; (4) is en route to or from another

country to which that alien is accredited; (5) is an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State; (6) is a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business; (7) has received a waiver from the prohibition from the Attorney General of the United States.

2. Preparation of Application and Payment of Tax.

- a. **Authority.** As provided by 26 U.S.C. § 5822, any person (*other than a qualified manufacturer of firearms (see paragraph b)*) seeking to make a firearm must complete, in duplicate, a separate application on this form for each firearm. The applicant maker must furnish all the information called for on this application form.
- b. **Registration by Qualified Manufacturer.** A person who has a Federal firearms license to manufacture firearms (*Type 07 or 10*) and who has paid special (*occupational*) tax to manufacture NFA firearms is exempt from the making tax and filing of the ATF Form 1 application. Such qualified manufacturer must report and register each NFA firearm manufactured by filing ATF Form 2, Notice of Firearms Manufactured or Imported, as required by 27 CFR § 479.102.
- c. **Payment of/Exemption from Payment of Tax.** As provided in 26 U.S.C. § 5821, there is a \$200.00 tax on each firearm made, **except** as provided in 26 U.S.C. §§ 5852 and 5853, when an NFA firearm may be made without payment of the tax when made by, or on behalf of the United States or any State or political subdivision thereof. Documentation that the firearm is being made for a government entity, such as a United States government contract or a State or local government agency purchase order, must accompany the application. The reactivation of a registered unserviceable firearm is subject to the making tax.
- d. **Maker.**
- (1) If the maker is an individual, the entire form shall be completed, except for the responsible person information.
 - (2) If the maker is other than an individual:
 - (a) Item 2a: The address is the exact location of the principal place of business (*or principal office, in the case of a corporation*) or, in the case of a trust, the principal address at which the firearm is to be located.
 - (b) Item 2a must show the name of the entity (*i.e., the name of the LLC or trust*). Do not include names of corporate officials or trustees.
 - (c) The names and home addresses of all Responsible Persons (*see definitions*) must be listed (*use an attached sheet of paper if necessary*).
 - (d) For each Responsible Person, ATF Form 5320.23, National Firearms Act (NFA) Responsible Person Questionnaire, must be submitted, including a photograph and fingerprints for each Responsible Person.
- e. **Photographs and Fingerprints.** An individual maker (*including any Federally licensed collector who is an individual but not any other type of Federal firearms licensee*) must (1) attach to each copy in item 12 of the ATF Form 1, a 2 inch x 2 inch photograph of his/her frontal view taken one year prior to the date of the application and (2) submit two properly completed FBI Forms FD-258 (*Fingerprint Card with blue lines*) with the application. The fingerprints must be clear for accurate classification and taken by someone properly equipped to take them.
- f. **Signatures.** All signatures required on ATF Form 1 must be original in ink on both copies.
- g. **Law Enforcement Certification.** The chief law enforcement officer is considered to be the Chief of Police for the maker's city or town of residence, the Sheriff for the maker's county of residence; the Head of the State Police for the maker's State of residence; a State or local district attorney or prosecutor having jurisdiction in the maker's area of residence; or another person whose certification is acceptable to the Director, Bureau of Alcohol, Tobacco and Firearms and Explosives. If someone has specific delegated authority to sign on behalf of the Chief of Police, Sheriff, etc., this fact must be noted by printing the Chief's,

Sheriff's, or other authorized official's name and title, followed by the word "by" and the full signature and title of the delegated person. Item 10 must be completed for an individual maker. The certification must be dated no more than one year prior to the date of receipt of the application.

h. **Remittance.** If the application is subject to the making tax, which is \$200.00, please complete item 17 of the ATF Form 1. Please note that you can pay the tax by credit/debit card, check, or money order. The check or money order is to be made payable to ATF. Do not send cash.

i. **Photocopies or Computer Generated Versions.** After downloading or copying and printing this form from the ATF website, ensure that the front and back are on the same sheet of paper. The NFA Branch will not approve the application if the front and back are on separate sheets of paper.

j. **Description of Firearm and Markings.** (1) Item 4a. If you are modifying an existing firearm, enter the name and location of the original manufacturer. If you are creating the firearm, enter your name, city and state. (2) Item 4b. The types of NFA firearms are listed in instruction 1c. (3) Item 4c. Specify one caliber or gauge. If there is another designation, indicate the designation in item 4h. (4) Item 4d. Show the model designation (if known). (5) Items 4e and 4f. Specify one barrel length and overall length in items 4e and 4f as applicable. Note: if the firearm has a folding or collapsible stock, the overall measurement is to be made with the stock extended. (6) Item 4g. Do not alter or modify the serial number of an existing firearm. Enter the existing serial number in item 4g. to register the firearm. (7) Markings: The maker is required to mark the firearm with his name, city and state. All markings are to be in compliance with 27 CFR 478.92 and 479.102.

k. **Submission.** All requested information must be entered in blue or black ink and must be legible. Illegible entries will be returned for correction. Send both copies of the ATF Form 1 and attachments to the address located in the upper right hand corner on the face side of the ATF Form 1. Submission of the application to any other address may delay the processing.

3. **Approval of Application.** Upon approval of an application, the NFA Branch will affix the NFA tax stamp (*if any*) to the application, cancel it, and return the approved copy to the maker. The approval of the application effectuates registration of the firearm to the maker; however, the firearm must not be made until the application has been approved.

4. **Withdrawal of Application.** The application may be withdrawn prior to approval by submission of a written request from the maker. The NFA Branch will arrange for a refund of any tax paid.

5. **Cancellation of Approved Application.** An approved application may be cancelled only if the firearms had not been made or modified. The maker must return the approved application with a written request for cancellation, citing the need and that the making of the firearm did not take place. The NFA Branch will arrange for a refund of any tax paid.

6. **Disapproval of Application.** If the application is disapproved, the NFA Branch will note the reason for disapproval on the application and return one copy to the maker. The NFA Branch will arrange for a refund of any tax paid.

7. **Reasons for Disapproval.** 26 U.S.C. § 5822 provides that applications shall be denied if the making or possession of the firearm would place the maker in violation of law.

a. **Violation of Law.** Applications shall be denied if the making or possession of the firearm would place the person making the firearm in violation of law.

b. **Machineguns.**

(1) 18 U.S.C. § 922(o) provides that machineguns may be made only for government use or export. An application will be denied unless the making meets these criteria.

c. **Persons Prohibited from Making a Firearm.** The application will be disapproved if the maker is a person prohibited from possessing a firearm by 18 U.S.C. § 922(g), which provides that it shall be unlawful for any person-

- (1) who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;
- (2) who is a fugitive from justice;
- (3) who is an unlawful user of or addicted to any controlled substance;
- (4) who has been adjudicated as a mental defective or who has been committed to a mental institution;
- (5) who, being an alien, is illegally or unlawfully in the United States or, except as provided in 18 U.S.C. § 922(y)(2), has been admitted to the United States under a nonimmigrant visa (*as that term is defined in 8 U.S.C. § 1101(a)(26)*);
- (6) who has been discharged from the Armed Forces under dishonorable conditions;
- (7) who, having been a citizen of the United States, has renounced his citizenship;
- (8) who is subject to a court order that-

(A) was issued after a hearing of which such person received actual notice; and at which such person had an opportunity to participate;

(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C) (I) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or (II) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury, or

- (9) who has been convicted in any court of a misdemeanor crime of domestic violence, to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

8. **Status inquiries and Questions.** The NFA Branch telephone number is (304) 616-4500. Any inquiry relating to the status of an application to make an NFA firearm or about procedures in general should be directed to the NFA Branch. Please be aware that the information relating to the registration of firearms is defined as "return" or "return information" by 26 U.S.C. § 6103 and disclosure is generally prohibited to anyone other than the registrant. Information relating to the NFA and other firearms laws is also available at the ATF Internet website www.atf.gov.

9. **Penalties.** Any person who violates or fails to comply with any of the requirements of the NFA shall, upon conviction, be fined not more than \$10,000 or be imprisoned for not more than 10 years, or both. Any firearm involved in a violation of the NFA shall be subject to seizure and forfeiture. It is unlawful for any person to make or cause the making of a false entry on any application or record required by the NFA knowing such entry to be false.

10. **Compliance with the Gun Control Act.** Persons must also comply with all relevant portions of the GCA.