

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

Information Collection Request  
Supporting Statement

OMB 1140-0014 ATF Form 4 (5320.4)  
Application for Tax Paid Transfer and Registration of Firearm

A. JUSTIFICATION

1. The ATF Form 4 (5320.4) 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. The statutory requirements are implemented in §§ 479.81 through 479.87, Title 27, Code of Federal Regulations.

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

Form Changes. ATF is proposing the following changes to ATF Form 4 (5320.4) through the proposed rule published on September 9, 2013, under RIN 1140-AA43:

- Incorporate information currently captured by ATF F 5330.20, Certification of Compliance with 18 U.S.C. 922(g)(5)(B), eliminating the completion of an additional form for any application submitted. As the same information is requested, there is no increase to the submission time.
- Incorporate provisions of RIN: 1140-AA43 that require a transferee which is a legal entity to list the names and home addresses of all responsible persons of the legal entity.
- Incorporate the requirement that legal entities must submit fingerprints, photographs and Law Enforcement Certification.
- Add a certification by law enforcement that the fingerprints and photographs accompanying the form are those of the individual transferee.
- Remove a certification by law enforcement that they have no information that the individual transferee will use the firearm or device described in the form for other than lawful purposes.
- Allow the applicant to pay the transfer tax by credit or debit card in addition to payment by check or money order. This revision should decrease the submission time by capturing the credit/debit card information rather than writing a check or obtaining a money order.

ATF Form 4 (5320.4)  
1140-0014

- Revise instructions to address payment by credit/debit card; and other instructions have been revised for clarity.
2. Any person seeking to transfer a firearm tax paid must complete, in duplicate, an application of ATF F 4 (5320.4) for each firearm. The transferor must furnish all information called for on the application form. The information on this form is used by NFA Branch personnel to identify the transferor, transferee, and firearm and 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.

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 is used to determine the non-registration of a firearm, a violation as specified in § 5861.

3. The form is available on the ATF website and it is fillable. However, due to the fact that an original signature is required and, in some cases, requires the submission of fingerprints and photographs, and the original signature on a certificate from the chief local law enforcement officer, respondents cannot respond electronically. Form 4 is part of an ongoing ATF project to implement eForms when the fingerprints, photographs, and law enforcement certificate are not required. When implemented, ATF anticipates that electronic submission will decrease the filing time and increase the accuracy and completeness of the filing. Electronic submission will assist in increasing the efficiency of ATF's processing.
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.
5. The information collection has no impact on small business or other small entities.
6. The consequence of not conducting this information collection would result in firearms being transferred to persons who would be in violation of the law.
7. This collection is conducted in a manner consistent with the requirement in 5 CFR 1320.6.

ATF Form 4 (5320.4)  
1140-0014

8. The ATF industry liaison consulted with the firearms industry during the creation of this form. The revision of this collection is associated with RIN: 1140-AA43 and a Notice of Proposed Rule Making is being published in the Federal Register in order to solicit comments from the public.
9. No payment or gift is associated with this collection.
10. The information from this application may be only disclosed to Federal authorities for purposes of prosecution for violation of the National Firearms Act. The respondent's information is kept in a secured location. Confidentiality is not assured.
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. In CY 2012, 65,085 Form 4 applications were processed. The filing of the Form 4 is an independent event for when a person is requesting permission to transfer an NFA firearm on a taxpaid basis.

After review, we found that the number of respondents identified in the last justification (11,065) was low, thus providing an under-reported number for burden hours, and we also questioned whether the 4 hours per respondent was accurate.

Based on our analysis of Form 4 applications processed during CY 2012, ATF found that the completion times for each form actually vary depending on whether the transfer is to individuals, qualified Federal firearms licensees (FFL), or legal entities. For example, if the transfer is to an individual, due to the requirements for fingerprints, photographs and Law Enforcement Certification, the submission will take 230 minutes. For a transfer to a legal entity, the amount of time is doubled based on an estimate of two responsible persons per legal entity and an additional five minutes for copying documents to establish the existence of the legal entity, for a total of 465 minutes. For a transfer to a qualified FFL, there is no requirement for fingerprints, photographs or Law Enforcement Certification. Therefore, the submission to an FFL takes less than four hours, in fact, 20 minutes. The estimated time now represents an average of the different times for the three subsets (i.e., individuals, legal entities, and FFLs) and is:

- 20 minutes (to complete and mail the form) for a submission by an FFL
- 230 minutes for submission by an individual (50 minutes to procure photographs; 60 minutes to procure fingerprints, 100 minutes to procure the Law Enforcement Certification; and 20 minutes to complete and mail the form)

ATF Form 4 (5320.4)  
1140-0014

- 465 minutes for submission by a legal entity (100 minutes to procure photographs; 120 minutes to procure fingerprints, 200 minutes to procure the Law Enforcement Certification; 5 minutes to copy documents to establish the existence of the legal entity; and 40 minutes to complete and mail the form)

The estimated number of respondents is 65,085 (35,237 legal entities, 4,746 FFLs, and 25,102 individuals). Each respondent will respond one time.

The estimated burden hours are 370,893.

- 1,582 hours for FFLs (4,746 respondents x 20 minutes divided by 60)
- 273,087 hours for legal entities (35,237 respondents x 465 minutes divided by 60)
- 96,224 for individuals (25,102 respondents x 230 minutes divided by 60).

The estimated average burden per respondent is 5.69 hours.

13. As noted in section 12, we reviewed our prior submission and found that there were operational costs that had not been considered. There is no start-up costs associated with this form, but there are costs associated with providing the information.

*Estimated operational costs:* \$3,234,813

- \$3,058,432 cost for fingerprints (\$24) and photographs (\$8) (Individuals - \$32 x 25,102= \$803,264; 2 Responsible Persons - \$32 x 70,474= \$2,255,168)
- \$52,855.50 cost for providing copies of legal documents establishing legal entity (\$1.50 (\$.10 per page with an average of 15 pages) x 35,237))
- \$123,525.60 cost for mailing (\$2 each for 60,339 respondents and \$.60 for 4,746 respondents)

14. The estimated annual cost to the Federal Government is as follows:

- \$650.85 for printing 65,085 Forms 4 (65,085 x .01)
- \$1,385,852 for processing fingerprints (\$14.50 x 95,576 (25,102 individuals + (35,237 x 2 Responsible Persons of the legal entity))
- \$735,935.20 for conducting and reviewing background checks (\$7.70 (15 minutes at \$30.80 per hour) x 95,576)

15. The adjustments made to this collection are an increase in the number of respondents to 65,085, an increase in the total annual burden hours to 370,893, and an increase in cost burden because we have considered the operational costs associated with this collection.

ATF Form 4 (5320.4)  
1140-0014

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.

B. Collections of Information Employing Statistical Methods

None