

**U.S. Department of Justice**  
 Bureau of Alcohol, Tobacco, Firearms and Explosives

# Application for Tax Exempt Transfer and Registration of Firearm

**ATF Control Number**

**SUBMIT in DUPLICATE to:** National Firearms Act Branch  
 Bureau of Alcohol, Tobacco, Firearms and Explosives, 244 Needy Road, Martinsburg, WV 25405

2a. Transferee's Name and Address <i>(Include trade name, if any) (See instruction 2d)</i>	1. Type of Transfer: Tax Exempt I Believe That I am Entitled to Exemption From the Payment of the Transfer Tax Imposed By Section 5811 (26 U.S.C. Chapter 53) on the Firearm Described Herein for the Following Reason <i>(See Instruction 2b)</i> :
2b. County	<input type="checkbox"/> Firearm is Unserviceable and is Being Transferred as a Curio or Ornament <input type="checkbox"/> Firearm is Being Transferred to or from a Government Entity <input type="checkbox"/> Firearm is Being Transferred to a Lawful Heir or by Operation of Law <input type="checkbox"/> Other (Specify) _____
2c. Name of Responsible Person <i>(If applicable)</i>	
2d. Home Address of Responsible Person	3b. Transferor's Telephone Number and Area Code
3a. Transferor's Name and Address <i>(Include trade name, if any) (Executors: see instruction 2k)</i>	
3c. If Applicable: Decedent's Name, Address, and Date of Death	
3d. Number, Street, City, State and Zip Code of Residence <i>(or Firearms Business Premises)</i> If Different from Item 3a.	

The above-named and undersigned transferor hereby makes application as required by Section 5812 of the National Firearms Act to transfer and register the firearm described below to the transferee.

4. Description of Firearm <i>(Complete items a through i) (See instruction 2m)</i>			d. Model		
a. Name and Address of Maker, Manufacturer and/or Importer of Firearm	b. Type of Firearm <i>(See instruction 1c)</i>	c. Caliber or Gauge	Length (Inches)	e. Of Barrel:	f. Overall:
h. Additional Description or Data Appearing on Firearm <i>(Attach additional sheet if necessary)</i>			i. Is the Firearm Unserviceable as Defined in Definition 11? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>(If "No," describe any other method by which firearm has been rendered unserviceable. Use additional sheets.)</i>		
5. Transferee's Federal Firearms License <i>(If any)</i> <i>(Give complete 15-digit number) (See instruction 2c)</i>			6. Transferor's Federal Firearms License <i>(If any)</i> <i>(Give complete 15-digit number) (See instruction 2c)</i>		
First 6 digits	2 digits	2 digits	5 digits	First 6 digits	2 digits
7. Transferee's Special (Occupational) Tax Status <i>(If any)</i>			8. Transferor's Special (Occupational) Tax Status <i>(If any)</i>		
a. Employer Identification Number	b. Class	a. Employer Identification Number	b. Class		

**Under Penalties of Perjury, I Declare** that I have examined this application, and to the best of my knowledge and belief it is true, correct and complete, and that the transfer of the described firearm to the transferee and receipt and possession of it by the transferee are not prohibited by the provisions of Chapter 44, Title 18, United States Code; Chapter 53, Title 26, United States Code; or Title VII of the Omnibus Crime Control and Safe Streets Act, as amended; or any provisions of State or local law.

9. Consent to Disclosure of Information to Transferee *(See instruction 8)*. I **Do** or **Do Not** *(circle one)* Authorize ATF to Provide Information Relating to this Application to the Above-Named Transferee.

10. Signature of Transferor <i>(Or authorized official)</i>	11. Name and Title of Authorized Official <i>(Print or type)</i>	12. Date
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**The Space Below is for the use of the Bureau of Alcohol, Tobacco, Firearms and Explosives**

By Authority of The Director, This Application Has Been Examined, and the Transfer and Registration of the Firearm Described Herein and the Interstate Movement of that Firearm, When Applicable, to the Transferee are:

<input type="checkbox"/> Approved <i>(With the following conditions, if any)</i>	<input type="checkbox"/> Disapproved <i>(For the following reasons)</i>
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Signature of Authorized ATF Official	Date
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**13. Law Enforcement Certification (See instruction 2f)**

I certify that I am the chief law enforcement officer of the organization named below having a jurisdiction in the area of residence of \_\_\_\_\_  
 (Name of Transferee)

I am satisfied that the fingerprints and photographs accompanying this form are those of the person identified on the form. I have no information that receipt or possession of the firearm described in items 4a - 4i would place the person 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)

**Transferee Certification (Do not complete if other than an individual) (See instruction 2)**

14. I, \_\_\_\_\_, have a reasonable necessity to possess the machinegun, short-barreled rifle, short-barreled shotgun, or destructive device described on this application for the following reason(s) \_\_\_\_\_  
 (Name and Title of Transferee)

and my possession of the device or weapon would be consistent with public safety (18 U.S.C. 922(b) (4) and 27 CFR 478.98).

15. Answer questions 15.a. through 15.j. Answer questions 17 through 20 if applicable. For any Yes answer (other than for 15.i), the transferee shall provide details on a separate sheet. (See instruction 7b and definitions)

	Yes	No	16. 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 2g)
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 15.i., Please answer questions 17, 18, 19 and 20.

17. Answer questions 17.a., 17.b., and 18 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 18 and proceed to questions 19 and 20.		

18. 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 definitions) **If the answer is "YES", A copy of the Documentation must be attached to the Application.**  Yes  No  N/A

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

20. 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 18 U.S.C. 924 and 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 Transferee 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 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. **Transfer.** Selling, assigning, pledging, leasing, loaning, giving away, or otherwise disposing of a firearm.
- j. **Transferor.** The person selling or otherwise disposing of a firearm; including applying to transfer a firearm.
- k. **Transferee.** The person acquiring the firearm.
- 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. **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.
- o. **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.
- p. **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.
- q. **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.

r. **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.

s. **Misdemeanor Crime of Domestic Violence:** A Federal, State, local, tribal offense that is a misdemeanor under the 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.

t. **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

a. **Authority.** As provided by 26 U.S.C. §§ 5812 and 5852, and 5853 any person seeking to transfer a firearm exempt from payment of tax must complete, in duplicate, an application on this form for each firearm. The transferor must furnish all the information called for on this application form.

b. **Exemptions from Transfer Tax.** A registered firearm may be transferred without payment of the transfer tax if:

- (1) it is unserviceable; (*See definition 11*)

- (2) it is being transferred to or from the United States, or any department, independent establishment or agency thereof;
- (3) it is being transferred to or from any State or possession of the United States or any political subdivision thereof, or any official police organization of such government entity; or
- (4) it is being transferred to a beneficiary of an estate.

c. **Federal Firearms Licensees.** If the transferor or transferee is licensed under the GCA, the name, trade name (*if any*), and address shall be identified on the ATF Form 5 as they appear on the license. If item 7 is completed, the entity identified must be the same as the entity identified in item 5. For example, **if item 5 identifies a sole proprietor, item 7 cannot identify a corporation.** This also applies for the completion of items 6 and 8.

### d. Transferee.

- (1) If the transferee is an individual, the entire form shall be completed, except for the responsible person information.
- (2) If the transferee 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.
- (3) If the transferee is not licensed under the GCA, item 15 must be completed.

e. **Transferee Certification.** Item 14 must be completed by the transferee if:

- (1) the firearm to be transferred is a machinegun, short-barreled rifle, short-barreled shotgun, or destructive device;
- (2) the transferor is licensed under the GCA to deal in such device or firearm; and
- (3) the transferee is **not** licensed under the GCA to deal in such device or firearm.

f. **Law Enforcement Certification.** Item 13 must be completed for an individual transferee, unless the transferee is licensed as a manufacturer, importer, or dealer under the GCA and is a special (*occupational*) taxpayer under the NFA at the time of the submission of the application for transfer. The certificate must be dated no more than one year prior to the date of receipt of the application. The chief law enforcement officer is considered to be the Chief of Police for the transferee's city or town of residence; the Sheriff for the transferee's county of residence; the Head of the State Police for the transferee's State of residence; a State or local district attorney or prosecutor having jurisdiction in the transferee's area of residence; or another person whose certification is acceptable to the Director, Bureau of Alcohol, Tobacco, 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.

g. **Photographs and Fingerprints.** An individual transferee, except if licensed as a manufacturer, importer, or dealer under the GCA, must (1) attach to Item 16 of the ATF Form 5, a 2 inch x 2 inch photograph of the frontal view of the transferee taken within 1 year prior to the date of the application and (2) attach two properly completed FBI Forms FD-258 (*Fingerprint Card with blue lines*) to the application. The fingerprints must be clear for accurate classification and taken by someone properly equipped to take them.

h. **Signatures.** All signatures required on ATF Form 5 must be original in ink on both copies.

- i. **Photocopies, Computer Generated Versions, or Downloaded Version from ATF Website.** After downloading or copying and printing this form, ensure that the front and back are on the same sheet of paper.
- j. **Estates, Trusts, and Other Transfers by Operation of Law.** When a firearm is being transferred from an estate by bequest or intestate succession, or by other operation of law to a beneficiary or other authorized recipient, ATF Form 5 is used to effect the transfer. The executor, trustee, or other person appointed to dispose of property shall provide documentation of the legal status of the person entitled to receive property, and shall identify that person in item 3a. In the case of an estate, item 3b shall be completed to reflect the decedent's information. If the transfer is to someone other than to a person identified under operation of law, the transfer is subject to transfer tax and ATF Form 4 shall be used.
- k. **Submission.** All requested information must be entered in blue or black ink and must be legible. Send both copies of the ATF Form 5 and attachments to the address located in the upper right hand corner on the face side of the ATF Form 5. Submission of the application to any other address may delay the processing.
- l. **Submission by Facsimile Transmission.** ATF Form 5 may also be submitted (*in situations where the application is not accompanied by fingerprints and photographs*) for approval by facsimile transmission ((304) 616-4501) provided that the transferor has filed an affidavit with the NFA Branch as provided by ATF Industry Circular 89-6.
- m. **Description of Firearm and Markings.** (1) Item 4a. please provide the name and address of the maker, manufacturer or importer of the firearm. If there are additional makers, manufacturers, or importers, include this information in item 4h .or on a separate sheet of paper. (2) Item 4b. the types of NFA firearm are listed in instruction 1c. (3) Item 4c. specify one caliber or gauge. If there are additional calibers associated with the description of the firearm, include this information in item 4h or on a separate piece of paper. (4) Item 4d. show the model designation (*if any*)(5) Item 4e. and 4f. specify the barrel and overall lengths as applicable. If there are additional barrel and overall lengths associated with the description of the firearm, include this information in item 4h. or on a separate sheet of paper. (6) Item 4g. (a) enter the serial number of the firearm. (b) When more than one firearm of the same description is being transferred and the serial numbers are in a consecutive series, the transferor may enter the beginning and ending serial numbers of the range. When more than one firearm of the same description is being transferred but the serial numbers are nonconsecutive, the transferor may not item 4g. to "see attached list of xxx serial numbers." Any attachment must be referenced to the ATF Form 5. (7) If there are differences between the description of the firearm on the form in comparison to the physical description of the firearm or in the markings on the firearm, including the serial number, contact the NFA Branch in regard to these differences.
- n. **State or Local Permit.** If a State or local permit or license is required for the transferee prior to acquisition of the firearm, a copy of the permit must be included with the application.
3. **Approval of Application.** Upon approval of an application, the NFA Branch will return the approved copy to the transferor for delivery with the firearm to the transferee. Since the approval of the application effectuates registration of the firearm to the transferee, the physical transfer of the firearm must be completed immediately; however, the transferor must not transfer the firearm until the application has been approved and received. If the physical transfer of the firearm cannot be completed immediately, the transferor must contact the NFA Branch with the specifics.
4. **Withdrawal of Application.** The transferor may withdraw an application prior to approval subsequent to a written request.
5. **Cancellation of Approved Application.** The transferor may cancel an approved application only if the physical transfer of the firearm has not been completed. The transferor must return the approved application with a written request for cancellation, citing the need and that the physical transfer of the firearm did not take place.
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 of the ATF Form 5 to the transferor.
7. **Reasons for Disapproval.** 26 U.S.C. § 5812 provides that applications shall be denied if the transfer, receipt, or possession of the firearm would place the transferee in violation of law.
- a. **Violation of Law.** Applications shall be denied if the receipt or possession of the firearm would place the person receiving or possessing the firearm in violation of law.
- b. **Persons Prohibited from Receiving a Firearm.** The application will be disapproved if the transferee is a person prohibited from receiving 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 non-immigrant 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 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.** Information relating to the NFA and other firearms laws is available at the ATF Internet website at [www.atf.gov](http://www.atf.gov). Any inquiry relating to the status of an application to transfer an NFA firearm or about procedures in general should be directed to the NFA Branch at (304) 616-4500. Please be aware that any dissemination by ATF of information relating to the application to register an NFA firearm must conform with the restrictions in 26 U.S.C. § 6103. The opportunity provided in item 8 to authorize ATF to disclose information is intended to enable ATF to respond to inquiries by the transferee regarding the application. The failure to complete item 8 will be considered a declination of authorization to release the information.
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.

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### Important Information for Currently Registered Firearms

If this registration document evidences the current registration of the firearm described on it, please note the following information.

**Estate Procedures:** For procedures regarding the transfer of firearms in an estate resulting from the death of the registrant identified in item 2a, the executor should contact the NFA Branch, Bureau of Alcohol, Tobacco, Firearms and Explosives, 244 Needy Road, Martinsburg, WV 25405.

**Change of Address:** Unless currently licensed under the Gun Control Act, the registrant shall notify the NFA Branch, Bureau of Alcohol, Tobacco, Firearms and Explosives, 244 Needy Road, Martinsburg, WV 25405, in writing, of any change to the address in Item 2a.

**Change of Description:** The registrant shall notify the NFA Branch, Bureau of Alcohol, Tobacco, Firearms and Explosives, 244 Needy Road, Martinsburg, WV 25405, in writing, of any change to the description of the firearm(s) in Item 4.

**Interstate Movement:** If the firearm identified in item 4 is a machinegun, short-barreled rifle, short-barreled shotgun, or destructive device, the registrant may be required by 18 U.S.C. § 922(a)(4) to obtain permission from ATF prior to any transportation in interstate or foreign commerce.

**Restrictions on Possession:** Any restriction (*see approval block on face of form*) on the possession of the firearm identified in item 4 continues with the further transfer of the firearm.

**Persons Prohibited from Possessing Firearms:** If the registrant becomes prohibited from possessing a firearm, please contact the NFA Branch for procedures on how to dispose of the firearm.

**Proof of Registration:** A person possessing a firearm registered as required by the NFA shall retain proof of registration which shall be made available to an ATF officer upon request.

#### Paperwork Reduction Act Notice

This form meets the clearance requirements of the Paperwork Reduction Act of 1995. The information you provide is used to apply the tax-exempt transfer of an unserviceable firearm to anyone other than a Federal firearms licensee who has paid the required special (*Occupational*) tax to deal in NFA firearms and to or from government agencies. The data is used to ensure legality of transfer under Federal, State and local law. The furnishing of this information is mandatory (*26 USC § 5812*).

The estimated average burden associated with this collection of information is 39 minutes per respondent or recordkeeper, depending on individual circumstances. Comments concerning the accuracy of this burden estimate and suggestion for reducing this burden should be addressed to Reports Management Officer, Information Technology Coordination Staff, Bureau of Alcohol, Tobacco, Firearms and Explosives, Washington, DC 20226.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

#### Privacy Act Information

The following information is provided pursuant to Section 3 of the Privacy Act of 1974 (5 U.S.C. § 552(e)(3)):

- 1. Authority.** Solicitation of this information is made pursuant to the National Firearms Act (26 U.S.C. § 5812). Disclosure of this information by the applicant is mandatory for any transfer without payment of transfer tax as provided in 26 U.S.C. § 5852.
- 2. Purpose.** To verify that the proposed transfer is exempt from transfer tax; to verify that the transfer would not be in violation of law; and to effect registration of the firearm.
- 3. Routine Uses.** The information will be used by ATF to make the determinations set forth in paragraph 2. In addition, to effect registration of the firearm, information as to the identification of the firearm, date of registration, and the identification and address of person entitled to possess the firearm will be entered into the National Firearms Registration and Transfer Record. No information obtained from an application, registration, or records required to be submitted by a natural person in order to comply with any provision of the National Firearms Act or regulation issued thereunder, shall, except in connection with prosecution or other action for furnishing information, be used, directly or indirectly, as evidence against that person in any criminal proceeding with respect to a violation of law occurring prior to or concurrently with the filing of the application. The information from this application may only be disclosed to Federal authorities for purposes of prosecution for violation of the National Firearms Act.
- 4. Effects of not Supplying Information Requested.** Failure to supply complete information will delay processing and may cause denial of the application.