

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 for a person with a registered National Firearms Act (NFA)(Title 26, United States Code, Chapter 53) firearm to apply for and receive approval for the transfer and registration of the firearm. The implementing regulations are in Title 27, Code of Federal Regulations, Part 479.

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.

Section 5812 also requires that the application form identify the transferee in such manner as the Attorney General may by regulations prescribe, except that if the transferee is an individual, his fingerprints and photographs must be included in the application. Similarly, the transferor and firearm must also be identified in such manner as the Attorney General may by regulations prescribe.

In a recent rulemaking, ATF extended the requirements for fingerprints and photographs to other transferees. Prior to the rulemaking, if the transferee was a trust or legal entity, such as an LLC or corporation, fingerprints and photographs were not required. The rulemaking defined responsible persons in regard to trusts and legal entities and requires that any responsible person must submit fingerprints and photographs.

The regulations had required an individual transferee to obtain a certification from their local chief law enforcement officer that the transfer and possession of the firearm was not prohibited by State or local law and that the official had no knowledge that the transferee would use the firearm for any unlawful reason. This rulemaking rescinded the requirement for the certification and replaced it with a notification to the local chief law enforcement officer of the proposed transfer of the firearm. The notification is required for all transferees and responsible persons.

ATF Form 4 (5320.4)
1140-0014

Two comment periods were held regarding this form with the second comment period closing on May 31, 2016. Changes, as discussed below were made to this form.

Form Changes. ATF has made the following changes to ATF Form 4 (5320.4):

- Provide a new print format for the form. Rather than a long sheet of paper, the form will be printed in a set of 3 (ATF, registrant and CLEO) with each titled accordingly.
 - Items 1, 2 and 3 relocated on the form for mailing purposes.
 - Item 4g – serial number will be obscured on the CLEO copy (see instruction 2.d(6)).
 - Item 3b – field noted to show the supplying of the email address is optional.
 - Item 12 – combined the lines for the agency name and official’s name and title into one line and deleted the line for ‘date sent to agency.’
 - Certification (following item 17) – changed language to reflect concerns about sending a completed copy of the form to meet the notification requirement when the form had not yet been signed/completed. Also revised to clarify that not all fields require information for a completed form. The certification now reads that a completed copy will be sent upon the submission of the form. See instructions 2.d(2) and 2.d(3) for information as to what items shall be completed when the application is filed by either an individual or a trust or other legal entity.
 - Item 19 – revised to allow entry of additional responsible person names.
 - Item 20 – financial information will only be completed on the ATF copy of the form. The field is obscured on the ATF Copy 2 (Registrant) and CLEO copy. See instruction 2.d(6).
 - Instruction 2.a – revised to clarify what is a completed form and provide instructions as to the dissemination of the form.
 - Instruction 2.l - revised to clarify what is a completed form and provide instructions as to the dissemination of the form.
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. The form identifies the transferor, transferee, and firearm. 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.

An individual transferee is asked to respond, under penalties of perjury, to questions to determine whether he or she is prohibited by Federal law from possessing firearms. For a trust or legal entity, each responsible person will provide this

ATF Form 4 (5320.4)
1140-0014

information via the filing of Form 5320.23, National Firearms Act (NFA) Responsible Person Questionnaire.

The requirement for the submission of fingerprints for both individual transferees and responsible persons allows ATF to determine, based on criminal history checks, whether individual transferee or responsible person would be prohibited by Federal law from possessing a firearm. The law enforcement notification required of the transferee and any responsible person (via Form 5320.23) allows local law enforcement authorities to provide any information that would indicate whether the transferee or any responsible person is prohibited by Federal law from possessing a firearm.

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 payment of the transfer tax 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 was made electronic but, due to difficulties which caused the ATF eForms system to crash, the form had to be withdrawn from service until it could be fixed. ATF has not had the resources to do so. However, with these regulatory changes being made, the form and supporting databases must be modified. ATF's goal is to have the electronic form available by the end of Calendar Year 2016. In the interim, the form is available on the ATF website (www.atf.gov) in a fillable version which can be downloaded, printed and filed and in hard copy. The form cannot currently be filed electronically; however, ATF intends to make the form an eForm which may then be filed via ATF's eForms system (www.atfonline.gov).
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 on this form is unique to the person supplying it and would have little or no impact on small business or other small entities.
6. The consequence of not conducting this information collection could result in firearms being transferred to a person whose possession would be in violation of the law. The information is used to ensure the legal transfer and possession of a firearm and to effectuate the registration of the firearm to the transferee in the National Firearms Registration and Transfer record.

ATF Form 4 (5320.4)
1140-0014

7. There are no special circumstances associated with this collection and the collection is conducted in a manner consistent with the requirement in 5 CFR 1320.6.
8. In September 2013, ATF published a Notice of Proposed Rulemaking (Docket No. ATF 41P) in conjunction with information collection RIN: 1140-AA43, including the proposed forms. The comment period ended in December 2013. This form was revised based on comments made to the proposed rulemaking and as a result of changes made to the regulations in the Final Rule published in the Federal Register (81 FR 2657) on 15 January 2016. Comments on the revisions to this form in accordance with OMB requirements, were addressed and resolved. Specifically suggestions for formatting changes were included in Section 1 under the sub-heading form changes. Additional comments and ATF responses were combined and submitted to ROCIS in one combined comments document in PDF format.
9. No payment or gift is associated with this collection.
10. The information from this application is classified as “tax information” or “tax return information” and any release is severely restricted by the Tax Reform Act (26 U.S.C. § 6103) and 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. *Estimated total annual reporting and/or recordkeeping burden:* 466,755 hours (current estimated total annual reporting and/or recordkeeping burden from OMB Information Collection Number 1140-0014: 109,552 hours).

As discussed in the final rule, there is a total of 123,339 respondents. Of these, 4,257 Government/Federal firearm licensee respondents will take 20 minutes per response (1,419 hours); 93,739 trust and legal entity responders will take 260 minutes per response (406,202 hours); and 25,343 individual respondents will take 140 minutes per response (59,134 hours).

Estimated average burden hours per respondent and/or recordkeeper: 3.78 hours (current estimated average burden hours per respondent or recordkeeper from OMB Information Collection Number 1140-0014: 1.68 hours).

ATF Form 4 (5320.4)
1140-0014

Estimated number of respondents and/or recordkeepers: 123,339 (current estimated number of respondents and/or recordkeepers from OMB Information Collection Number 1140-0014: 65,085).

Estimated annual frequency of responses: 1 (current estimated annual frequency of responses from OMB Information Collection Number 1140-0014: 1).

13. *Estimated total costs:* \$6,649,205.00 (current estimated totals costs from OMB Information Collection Number 1140-0014: \$979,645)
- Fingerprints and photographs: \$6,380,373
 - o \$29.98 x 25,343 individual applicants: \$759,783
 - o \$29.98 x 187,478 responsible persons: \$5,620,590
 - Copies of legal entity documents: \$149,842
 - o \$1.60 x 93,739 trusts or legal entity applicants: \$149,892
 - Mailing: \$118,786.29
 - o \$.98 x 119,082 individual and trust or legal entity respondents: \$116,700.36
 - o \$.49 x 4,257 government or FFL respondents: \$2,085.93
14. The estimated annual cost of \$5,105,503.10 to the Federal Government is as follows:
- Printing Forms 4: \$38,235.09
 - o (123,339 forms x \$.31 per form)
 - Processing fingerprints: \$2,713,467.75
 - o (\$12.75 x 212,821 individuals and responsible persons)
 - Conducting and reviewing background checks of individual and responsible person respondents: \$2,353,800.26
 - o (\$11.06 (15 minutes at \$44.22 per hour) x 212,821)
15. The adjustments made to this collection are an increase in the number of respondents to 123,339, a change in the total annual burden hours to 466,755, and an increase in cost burden.

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ATF Form 4 (5320.4)
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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