

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

Information Collection Request
Supporting Statement

OMB 1140-0107
National Firearms Act (NFA) Responsible Person Questionnaire - ATF
Form 5320.23

A. JUSTIFICATION

1. The ATF Form 5320.23 is required for any responsible person (as defined in 27 CFR 479.11), who is part of a trust or legal entity that is applying on ATF Form 1, Application to Make and Register a Firearm, as the maker or is identified as the transferee on ATF Form 4, Application for Tax Paid Transfer and Registration of Firearm, or ATF Form 5, Application for Tax Exempt Transfer of Firearm. Forms 1, 4 and 5 are required under the National Firearms Act (NFA)(Title 26, United States Code, Chapter 53) for any person seeking to make an NFA firearm or to transfer an NFA firearm. The implementing regulations are found in Title 27, Code of Federal Regulations, Part 479. The specific regulation cites for the questionnaire are §§ 479.62, 479.63, 479.84 and 479.85.

The NFA, specifically 26 U.S.C. §§ 5812 and 5822, requires that an application to make or transfer an NFA firearm, when the maker or transferee is an individual, include the fingerprints and photographs of the maker or transferee. In a recent rulemaking, these requirements have been extended to include members of any trust or legal entity when the member meets the definition of “responsible person.” This form was created to identify the responsible person, the name of the applicant maker or transferee, and the identification of the firearm involved in the transaction. The form also requires the inclusion of the responsible person’s photographs and fingerprints.

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In addition, each responsible person must provide a notification to the local chief law enforcement officer of this pending transaction. The responsible person identifies the officer on the form and sends a copy of the form to the officer. The form also includes questions for the responsible person to answer to help ATF determine whether the responsible person is prohibited by Federal law from possessing a firearm. This form is submitted as part of the application package on Form 1, Form 4 or Form 5 when the applicant maker or transferee is a trust or legal entity.

ATF has identified that the collection of Responsible Persons Social Security Number, Date of Birth, Race, and UPIN (if applicable) would assist in limiting delays in the processing of NICS background checks. While this information is not required it would prove beneficial.

ATF requests approval to make the following changes to the layout and overall design of the ATF Form 5320.23:

- Item 3e: Remove "optional"
- Add new Item 5: Add SSN, DOB, and Race
- Item 8a: Add State of Birth and Country of Birth
- Add UPIN to be Item 10
- Adjust Certification spacing.
- Definitions/Instructions: 3: Add "c. Social Security Number"
- Definitions/Instructions: 5: Change to "Item 6 Law Enforcement Notification"
- Definitions/Instructions: 6: Change numbering to "7 through 10"
- Definitions/Instructions: 4: Responsible Person: Break definition into section A. and B.
- Change all references from "NFA Branch" to "NFA Division"
- Item 5: Obscure "Social Security Number" on CLEO Copy
- Instructions: 3c: Change "UPN" to "UPIN"
- Definitions: 4: Section B: Change "Trust those persons" to "Trust: Those persons"
- Information for CLEO: Change reference to "7b. Or 7c." To "9d. or 9e."
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- Items 5 and 11: Add "(See Instructions 3c)"
 - Page 2: Question 8: Instructions. The sentence should read as follows: "Answer questions 8.a. through 8.h. Answer Questions 9 and 10, if applicable."
2. The information on this form is used by NFA Division personnel as part of the process to determine the legality of the application under Federal, State and local law. Sections 5812 and 5822 provide that an application shall not be approved if the receipt or possession would place the person receiving the firearm in violation of law. The questionnaire provides information for ATF to determine whether any responsible person associated with the applicant maker or transferee, is eligible to make, receive, or possess firearms. The law enforcement notification required of a responsible person allows local law enforcement authorities to provide any information that would indicate whether the responsible person is prohibited from possessing a firearm. The questionnaire is prepared in duplicate. One copy, with the photographs and fingerprints, is submitted with the Form 1, 4 or 5 application. The other copy is sent to the chief law enforcement officer identified on the form.
 3. The form is available on the ATF website (www.atf.gov) in a fillable version which can be downloaded, printed and filed. 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). When implemented, ATF anticipates that electronic submission will decrease the filing time and increase the accuracy and completion of the filing.

Electronic submission will assist in increasing the efficiency of ATF's processing.

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4. 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.
5. The consequences of not conducting this information collection could result in the possibility of firearms being transferred to persons whose possession would be in violation of law. The information will be used to ensure the legal transfer and possession of a firearm.
6. 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.
7. All comments received during both the 60-day and 30-day Federal Register Notice period received a response, and/or were incorporated within ATF Form 5320.23.
8. No payment or gift was provided in association with this collection.
9. The information from this form is classified as “tax information” or “tax return information” and any release is severely restricted under the Tax Reform Act (26 U.S.C. § 6103) and may only be disclosed to Federal authorities for purposes of prosecution for violation of the NFA. The information is kept in a secured location. Confidentiality is not assured.
10. Questions of a sensitive nature are included on the form. These relate to the qualifications of the responsible person, such as whether the responsible person 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 responsible person is prohibited by Federal law from possessing firearms.
11. There are an estimated total 115,829 respondents to this information collection. Each respondent responds one (1) time. It will take each respondent 30 minutes to provide their responses. Therefore, the total burden hours for this IC is 57,914.5 or 57,915 hours.

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13. The total estimated public cost burden associated with this IC is: \$ 113,512 which is calculated as follows: \$.98 (cost per postage) * 115,829 (# total respondents).
14. The total Federal Government costs associated with this IC is: \$71,813.98 which is equal to: 115,829 (# of respondents) * .62 (cost per form in duplicate).
15. There are no adjustments associated with this information collection.
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

No statistical methods are associated with this collection.