

**DEPARTMENT OF THE TREASURY**

**ALCOHOL AND TOBACCO TAX AND TRADE BUREAU**

**Supporting Statement — Information Collection Request**

**OMB Control Number 1513–0128**

**Records to Support Tax Free and Tax Overpayment Sales of Firearms and Ammunition**

**A. Justification**

*1. What are the circumstances that make this collection of information necessary, and what legal or administrative requirements necessitate the collection? Also align the information collection to TTB's Line of Business/Sub-function and IT Investment, if one is used.*

The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers chapter 51 (distilled spirits, wine, and beer), chapter 52 (tobacco products, processed tobacco, and cigarette papers and tubes), and sections 4181–4182 (firearms and ammunition excise taxes) of the Internal Revenue Code of 1986, as amended, (IRC, 26 U.S.C.) pursuant to section 1111(d) of the Homeland Security Act of 2002, as codified at 6 U.S.C. 531(d). In addition, the Secretary of the Treasury (the Secretary) has delegated certain IRC administrative and enforcement authorities to TTB through Treasury Department Order 120–01.

In general, the IRC at 26 U.S.C. 4181 imposes excise taxes on the sale of firearms and ammunition by the manufacturer or importer. However, under the IRC at 26 U.S.C. 4221(a) manufacturers may make certain sales of such articles tax-free, including sales for export or further manufacture, and sales to a State or local government or a nonprofit educational organization for its exclusive use. For such sales where the excise tax has already been paid, the tax is considered an overpayment subject to credit or refund under the IRC at 26 U.S.C. 6416(b). IRC sections 4221 and 6416 also authorize the Secretary to issue regulations concerning such tax-free and tax-overpayment sales.

Under those IRC authorities, the TTB regulations in 27 CFR Part 53, Manufacturers Excise Taxes–Firearms and Ammunition, require that respondents otherwise subject to the firearms or ammunition excise tax must keep records containing specified information in support of tax-free or tax-overpayment sales of firearms and ammunition. Specifically, in 27 CFR 53.131, TTB provides general rules for tax-free sales, the required supporting records, and copies of those records provided to purchasers, while §§ 53.132 through 53.136 concern the specific types of tax-free sales and the required supporting records. Additionally, the regulations in 27 CFR 53.171 provide general rules for tax overpayment credit or refund sales, and §§ 53.172 through 53.182 describe the types of such sales and the required supporting records.

Under those TTB regulations, the required tax-free and tax-overpayment sales supporting records include, among other things, the name and address of purchasers, descriptions of the articles purchased, and information regarding the eligible tax-free use of the articles in question. Those records may consist of usual and customary commercial records, such as invoices and export bills of lading, or respondents may provide self-generated statements or

certificates containing the required information. Alternatively, as a service to respondents, TTB provides statement and certificate forms for the most common type of tax-free and tax-overpayment sales, which, when completed, document the required supporting information. These TTB forms, and the related IRC provisions and TTB regulations are:

- TTB F 5600.33, Statement of Ultimate Vendor; for use in claiming credit or refund for tax overpayment under 26 U.S.C. 6416(b)(2) and 27 CFR 53.179(b).
- TTB F 5600.34, Exemption Certificate (Use on Certain Vessels or Aircraft); see 26 U.S.C. 4221(a)(3) and 27 CFR 53.134(d).
- TTB F 5600.35, Exemption Certificate (Use by State or Local Government); see 26 U.S.C. 4221(a)(4) and 27 CFR 53.135(c).
- TTB F 5600.36, Statement of Manufacturer's Vendee (For Exports), see 26 U.S.C. 4221(a)(2) and 27 CFR 53.133(d).
- TTB F 5600.37, Statement of Manufacturer's Vendee (Use in Further Manufacture); see 26 U.S.C. 4221(a)(1) and 27 CFR 53.132(c).

Under 27 CFR 53.24, respondents are required to maintain the required records for at least three years at a place accessible to TTB officers for immediate examination. The required records are necessary to protect the revenue as the information they contain allows TTB to verify that respondents have correctly made tax-free and tax-overpayment sales of firearms and ammunition.

This information collection is aligned with —

- *Line of Business/Sub-function:* General Government/ Taxation Management.
- *IT Investment:* None.

2. *How, by whom, and for what purpose is this information used?*

Respondents use the required records to provide supporting documentation for their tax-free and tax-overpayment sales of firearms and ammunition, as allowed under the IRC. TTB may examine the required records during tax audits or investigations in order to protect the revenue and ensure compliance with the applicable IRC provisions and TTB regulations regarding such sales.

3. *To what extent does this collection of information involve the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology? What consideration is given to use information technology to reduce burden?*

TTB has approved and will continue to approve, on a case-by-case basis, the use of improved information technology for the collection and maintenance of required information. In the case of this information collection, respondents may use usual and customary commercial records or self-generated statements and certificates, including those generated or kept in electronic systems, to keep the required information. Alternatively, TTB provides statement and certificate forms for the most common type of tax-free and tax-overpayment sales, which, when completed, document the required supporting information. Currently, those TTB forms, TTB F 5600.33 through 5600.37, are available to the public as fillable-printable forms on the TTB website at <https://www.ttb.gov/forms>.

*4. What efforts are used to identify duplication? Can similar information already available be used or modified for use for the purposes described in Item 2 above?*

This recordkeeping requirement collects information pertinent to each respondent and applicable to the specific issue of documenting supporting information related to tax-free and tax-overpayment sales of firearms and ammunition. As far as TTB is able to determine, similar information is not available elsewhere.

*5. If this collection of information impacts small businesses or other small entities, what methods are used to minimize burden?*

To protect the revenue, the TTB regulations require all respondents engaging in tax-free sales or tax-overpayment sales of firearms and ammunition, regardless of size, to keep the required records. While the regulations specify what information such records must contain, they do not require a specific format for those records. As such, respondents may collect the required information using usual and customary business records, self-generated supporting statements and certificates, or TTB-provided statement and certificate forms. Also, for certain types of sales, respondents may use a single supporting statement or certificate to document multiple sales made over a specified time period. As such, TTB does not believe that this information collection has a significant impact on a substantial number of small businesses or entities.

*6. What consequences to Federal program or policy activities and what, if any, technical or legal obstacles to reducing burden will occur if this collection is not conducted or is conducted less frequently?*

Not collecting the required information regarding tax-free and tax-overpayment sales of firearms and ammunition would jeopardize the revenue. Without the collected information, TTB could not verify that respondents made such sales in compliance with the applicable IRC provisions and TTB regulations. Additionally, TTB cannot conduct this collection less frequently as respondents collect the required information only on an as-needed basis when they engage in an eligible transaction.

*7. Are there any special circumstances associated with this information collection that would require it to be conducted in a manner inconsistent with OMB guidelines?*

There are no special circumstances associated with this information collection.

*8. What effort was made to notify the general public about this collection of information? Summarize the public comments that were received and describe the action taken by the agency in response to those comments.*

To solicit comments from the public, TTB published a “60-day” comment request notice for this information collection in the Federal Register on September 3, 2020, at 85 FR 55067. TTB received no comments on this information collection in response.

9. Was any payment or gift given to respondents, other than remuneration of contractors or grantees? If so, why?

No payment or gift is associated with this information collection.

10. What assurance of confidentiality was provided to respondents, and what was the basis for the assurance in statute, regulations, or agency policy?

TTB provides no specific assurance of confidentiality for this information collection, which consists of records maintained by respondents at their places of business and copies of those records provided to tax-free purchasers of firearms and ammunition. If respondents provide any of the collected information to TTB during an audit or investigation, the IRC at 26 U.S.C. 6103 prohibits disclosure of such information unless that section specifically authorizes its disclosure. TTB maintains taxpayer-provided information in secure computer systems and file rooms with controlled access.

11. What is the justification for questions of a sensitive nature? If personally identifiable information (PII) is being collected in an electronic system, identify the Privacy Impact Assessment (PIA) that has been conducted for the information collected under this request and/or the Privacy Act System of Records notice (SORN) issued for the electronic system in which the PII is being stored.

This recordkeeping information collection contains no questions of a sensitive nature, and, because respondents maintain the required records at their places of business, it does not collect personally identifiable information (PII) in a government electronic system. As such, no Privacy Impact Assessment (PIA) or System of Records Notice (SORN) is required for this collection.

12. What is the estimated hour burden of this collection of information?

*Estimated Respondent Burden:* TTB notes that respondents may keep the information required under this information collection using usual and customary business records, or non-customary records such as self-generated supporting statements and certificates or TTB-provided statement and certificate forms. As such, TTB believes that at least 50 percent of respondents use usual and customary business records to document the required information. Under the Office of Management and Budget (OMB) regulations at 5 CFR 1320.3(b)(2), regulatory requirements to keep usual and customary business records do not impose any burden hours on respondents. Therefore, based on recent data, TTB estimates the annual burden associated with this information collection as follows:

Respondent Type	Record Type	Respondents	Responses / Respondent	Total Responses	Hours / Response	Total Burden Hours
Businesses or Other for Profits	Non-Customary	875	12	10,500	0.75	7,875
	Usual & Customary	875	12	10,500	0.00	0.00
	<i>Subtotals</i>	<i>All Types</i>	<i>1,750</i>	<i>12</i>	<i>21,000</i>	<i>(0.375)</i>
State, Local & Tribal	Non-Customary	875	12	10,500	0.75	7,875
	Usual &	875	12	10,500	0.00	0.00

Governments Subtotals	Customary					
	All Types	1,750	12	21,000	(0.375)	7,875
<b>Totals</b>		<b>3,500</b>	<b>12</b>	<b>42,000</b>	<b>0.375</b>	<b>15,750</b>

*Estimated Respondent Labor Costs:* As noted above, the OMB regulations state that the use of usual and customary business records impose no hourly burden, and thus no labor costs, on respondents. TTB estimates that 1,750 respondents (875 business or other for-profits, and 875 State, local and tribal governments) have no labor costs due to their use of usual and customary records for this information collection. However, TTB estimates that the remaining 1,750 respondents (875 business or other for-profits, and 875 State, local and tribal governments) use non-customary records to keep the required information and, therefore, do have labor costs for this information collection. As such, TTB estimates the annual respondent labor costs for this collection as follows:

Respondent Type & Fully-Loaded Labor Rate <sup>1</sup>	Avg. Time / Response	Full-Loaded Labor Rate / Response	Responses / Respondent	Labor Costs / Respondent	Non-customary Record Based Responses	Total Labor Costs
Businesses or Other for Profits \$29.59/hour	0.75 hour	\$22.19	12	\$266.28	10,500	\$232,995.00
State, Local & Tribal Governments \$33.63/hour	0.75 hour	\$25.22	12	\$302.64	10,500	\$264,810.00
<b>TOTALS</b>	<b>0.75 hour</b>	<b>(\$23.705)</b>	<b>12</b>	<b>(\$284.46)</b>	<b>21,000</b>	<b>\$497,805.00</b>

*Respondent Record Retention:* Under 27 CFR 53.24, respondents are required to maintain the required records for at least three years at a convenient and safe place, where they must be immediately available for inspection by TTB officers.

13. What is the estimated annual cost burden to respondents or record keepers resulting from this information collection request (excluding the value of the hour burden in Question 12 above)?

TTB believes that there are no annualized, non-labor costs to respondents associated with this occasional, as-needed recordkeeping requirement.

14. What is the annualized cost to the Federal Government?

<sup>1</sup> The “fully-loaded labor rate” is the total of an employee’s hourly wages and the hourly cost of their benefits, which is estimated for the private sector as hourly wage x 1.44, and for State and local governments as hourly wage x 1.6. Based on Department of Labor, Bureau of Labor Statistics (BLS) wage data for NAICS 3320A1 – Fabricated Metal Product Manufacturing, which includes firearms manufacturing, the fully loaded labor rate for private industry office and administrative occupations is \$29.59 (\$20.55 hourly wage + \$9.04 benefit costs). See the BLS website at [https://www.bls.gov/OES/Current/naics4\\_3320A1.htm](https://www.bls.gov/OES/Current/naics4_3320A1.htm). For State governments, the average fully-loaded labor rate for office and administrative support staff is \$33.63 per hour (\$21.02 wages + 12.61 benefits); see [https://www.bls.gov/oes/current/naics4\\_999200.htm](https://www.bls.gov/oes/current/naics4_999200.htm).

TTB has determined that there are no annualized labor or non-labor costs to the Federal Government associated with this information collection because respondents generate and maintain the required records at their business premises, even when using the TTB-provided supporting statement and certificate forms associated with this information collection. There are no printing and distribution costs associated with those TTB forms as they are available to the public on the TTB website.

*15. What is the reason for any program changes or adjustments reported?*

There are no program changes associated with this information collection. As for adjustments, due to a change in agency estimates, TTB is decreasing the number of annual respondents and responses to this information collection, but is increasing the estimated number of responses per respondent. Specifically, TTB is decreasing the number of annual respondents from 7,000 to 3,500, but is increasing the number of responses per respondent from 10 to 12. Taken together, these changes in estimates result in a decrease in the total number of annual responses, from 70,000 to 42,000. Additionally, TTB did not previously account for the use of usual and customary business records by 1,700 (50 percent) respondents, which, under OMB regulations at 5 CFR 1320.3(b)(2), do not impose any burden hours on respondents. Therefore, TTB is decreasing the estimated total annual burden for this collection from 52,500 hours to 15,750.

*16. Outline plans for tabulation and publication for collections of information whose results will be published.*

TTB will not publish the results of this information collection.

*17. If seeking approval to not display the expiration date for OMB approval of this information collection, what are the reasons that the display would be inappropriate?*

In general, respondents maintain the required tax-free and tax-overpayment firearms and ammunition sales records at their business premises using usual and customary records, respondent-generated supporting statements and certificates, or TTB-provided supporting statement and certificate forms. For usual and customary records, and for respondent-generated supporting statements and certificates, there is no medium for TTB to display the OMB approval expiration date for this information collection.

However, in regards to the TTB-provided supporting statement and certificate forms (TTB F 5600.33, 5600.34, 5600.35, 5600.36, and 5600.37), TTB is seeking approval not to display the expiration date for OMB approval of this information collection on those forms as a cost saving measure for both TTB and the public. By not displaying that date on those forms, TTB will not have to update the forms on its website each time OMB reapproves this information collection. Similarly, respondents and other businesses will not have to update stocks of the paper forms, self-produced electronic copies of the forms, or versions of the forms made for sale to other businesses. Additionally, not displaying the information collection's OMB approval expiration date on the forms will avoid confusion among members of the public who may have copies of the forms with different expiration dates in their possession.

18. *What are the exceptions to the certification statement?*

- (c) See item 5 for explanation regarding burden to small businesses.
- (i) This is not a survey so no statistical methods are involved.
- (j) See item 3 for explanation regarding the use of information technology.

**B. Collections of Information Employing Statistical Methods.**

This information collection does not employ statistical methods.