

There DEPARTMENT OF JUSTICE
BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES
Information Collection Request
Supporting Statement
OMB 1140-0014
Application for Tax Paid Transfer and Registration of Firearm – ATF
Form 4 (5320.4)

A. Justification

1. The Application for Tax Paid Transfer and Registration of Firearm – ATF Form 4 (5320.4) (ATF Form 4) must be completed to apply for approval to transfer and register a National Firearms Act (NFA) firearm (Title 26, United States Code (U.S.C.), Chapter 53). The implementing regulations are detailed in Title 27, Code of Federal Regulations (CFR), 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 the Bureau of Alcohol, Tobacco, Firearms and Explosives (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 26 U.S.C. § 5811.

The statutory requirements are implemented in Title 27 CFR §§ 479.81 - 479.87. Section 5812 of Title 26 U.S.C. also requires that the ATF Form 4 application identifies the transferee in such manner as the Attorney General may by regulations prescribe, except if the transferee is an individual. The application must also include two fingerprint identification cards (FD 258), and a photograph. The transferor and the firearms must also be identified in the manner as the Attorney General may prescribe by regulation. ATF has also identified that the collection of a responsible person’s Social Security Number, date of birth, race, and unique personal identification number (UPIN) (if applicable), would assist in limiting delays in the processing of National Instant Criminal Background Check System (NICS) review. While this information is not required it would prove beneficial.

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

- Two new Maker’s questions were added to the Form 5320.4 to match the new questions added to the 4473;
 - “Do you intend to make any firearm listed on this form for sale or other disposition to any person described in questions 11.c through 11.l or a person described in question 11.m who does not fall under an exemption?”
 - Do you intend to sell or otherwise dispose of any firearm listed on this form in furtherance of any felony or other offense punishable by imprisonment for a term of more than one year, a Federal crime of terrorism, or a drug trafficking offense?”
- Clarification added to Directions section 2.d.(5);
 - **Note:** Each Responsible Person of an entity licensed under the Gun Control Act (GCA) that does not pay the Special (Occupational) Tax (SOT) must submit ATF Form 5320.23 with the application as instructed in the above paragraph 27 CFR 479.63 (b)(2)(ii).
- Other minor grammar changes where needed.

2. NFA Division personnel will use the information on the ATF Form 4 to determine the legality of the application under Federal, State and local law. The form also identifies the transferor, transferee, and firearm(s). 26 U.S.C. § 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 information via the filing of National Firearms Act (NFA) Responsible Person Questionnaire – Form 5320.23.

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 completed ATF Form 4 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 updated to reflect the approval. One copy will be returned to the applicant for transmission to the transferee as proof of registration and payment of the transfer tax, while the other is retained by ATF as part of the National Firearms Registration and Transfer Record. The collected information is used to verify any subsequent transfer and registration of the firearm. In addition, collected information is used to determine the non-registration of a firearm, which is a violation as specified in 26 U.S.C. § 5861.

3. ATF Form 4 can be submitted electronically 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 has little or no impact on small business or other small entities.
6. Without this information collection firearms could be transferred to a person whose possession would be in violation of the law. The collected 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.
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. One comment received during the 60-day Federal Register (FR) notice period received a response. A 30-day FR notice will be published to solicit public comments.
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 regarding 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 if the transferee is prohibited by Federal law from possessing firearms.
12. There are a total 123,339 respondents who respond one (1) time per year to this information collection. 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). It takes on average 3.78433 hours to complete the form. Therefore, the total annual IC burden is 466,755 hours.
13. The total estimated public cost associated with this IC is: \$6,649,205 which is calculated as follows: \$53.91 (average cost per respondent to prepare and mail packet with responses) * 123,339 (# total respondents).
14. The estimated annual cost of \$4,786,271.60 to the Federal Government is calculated as follows:
 - Printing Forms 4: \$38,235.09 = 123,339 (total forms) * \$.31 (cost per form)
 - Processing fingerprints: \$2,394,236.25 = \$11.25 (cost for processing fingerprints) * 212,821 (# of individuals and responsible persons)
 - Conducting and reviewing background checks of individual and responsible persons: \$2,353,800.26 = \$11.06 (cost to conduct and review each background check) *212,821 (# of individuals and responsible persons)
15. There are no adjustments to this information collection.
16. The results of this collection will not be published.
17. ATF does not request approval to omit the Office of Management and Budget expiration date for this collection.
18. There are no exceptions to the certification statement.

B. This Collection of Information Employs No Statistical Methods.