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Gary Schaible
NFA Program Manager

Introduction

- For the ATF side, you will be dealing with two laws:
  - The Gun Control Act (GCA)
    - Title 18, United States Code, Chapter 44
    - Implementing regulations in Title 27, Code of Federal Regulations, Part 478
  - The National Firearms Act (NFA)
    - Title 26, United States Code, Chapter 53
    - Implementing regulations in Title 27, Code of Federal Regulations, Part 479

GCA

- Enacted in 1968 to provide support to Federal, State and local law enforcement
- Requires the Federal licensing of manufacturers, importers and dealers
- Requires recordkeeping
- Prohibits interstate shipment of firearms except to licensees
- Established prohibited person categories

GCA

- Amended in 1986 to prohibit the possession of machineguns (18 USC § 922(o) except for a transfer to or possession by a government agency
- The amendment allowed the machineguns lawfully possessed prior to enactment (May 19, 1986) to be 'grandfathered' to allow their transfer and possession by individuals.

NFA

- Enacted in 1934 to control traffic in certain types of firearms
- Federal registration is required for these firearms
- A central registry was established
- Taxes are imposed on the making and transfer of these firearms
- Taxes are imposed on those who manufacture, import or deal in these firearms

NFA

- ATF approval is required for any transfer
- Transfer: this term and the various derivatives thereof shall include selling, assigning, pledging, leasing, loaning, giving away, or otherwise disposing of

NFA Making and Transfer Taxes

- A tax of $200 is imposed on the making of any NFA firearm
- A tax of $200 is imposed on the transfer of any NFA firearm, except for the transfer of an 'any other weapon' where the tax is $5

NFA Firearms

- Machinegun
- Short Barreled Rifle
- Short Barreled Shotgun
- Silencer
- Destructive Device
- Any Other Weapon

Enforcement

- ATF enforces both statutes to ensure compliance with these laws and to pursue criminal investigations for those who violate these laws.

NFA

- ATF's National Firearms Act Branch in Martinsburg, WV:
  - Maintains the central registry
  - Processes all applications to transfer, manufacture, import, or export these firearms
  - Maintains the registry of special taxpayers
  - Processes applications for the interstate transportation of these firearms

NFA – State/local Laws

- ATF will not approve an application where the receipt or possession of the firearm would violate State or local law
  - For example, if a person does not have the Massachusetts machinegun license, we would not approve an application to transfer a machinegun to the person
  - State laws vary on the possession of various NFA firearms, e.g. New York prohibits machineguns

Machinegun

- Machinegun:
  - any firearm which shoots more than one shot with a single function of the trigger
  - The frame or receiver of any such firearm
  - Any part or combination of parts designed and intended to convert a firearm into a machinegun

Short Barreled Rifle or Shotgun

- Short barreled rifle –
  - A rifle having one or more barrels of less than 16-inches in length and any rifle modified to have an overall length of less than 26-inches
- Short barreled shotgun –
  - A shotgun having one or more barrels of less than 18-inches in length and any shotgun modified to have an overall length of less than 26-inches

Silencer

- Silencer or muffler –
  - Any device for silencing, muffling, or diminishing the report of a portable firearm
  - Includes any combination of parts designed and intended for use in assembling a silencer and
  - Any part intended only for use in such assembly

Destructive Device

- Any firearm (except a sporting shotgun) with a barrel with a bore of more than ½-inch in diameter
- Any explosive, incendiary or poison bomb, grenade, rocket (propellant charge of more than 4 ounces), missile (charge of more than ¼-ounce), mine, or similar device

Any Other Weapon

- Any concealable firearm that is not a pistol or revolver, for example, a belt buckle gun, a cane gun, a wallet gun
- A smoothbore pistol or revolver
- A firearm with combination rifle and shotgun barrels of 12-inches or more, less than 18-inches from which only a single discharge can be made without manual reloading (Handygun, Game Getter)

THIS DOES NOT INCLUDE A PISTOL OR REVOLVER

Import, Manufacture or Deal in NFA Firearms

- An NRC licensee may become qualified to import, manufacture, or deal in NFA firearms
- The NRC licensee must
  - Apply for and receive approval for the appropriate Federal firearms license
  - Pay the annual special (occupational tax) appropriate to the type of firearms business being conducted

Qualification

- The types of Federal firearms licenses applicable to this situation are:
  - Type 01, Dealer in Firearms
  - Type 07, Manufacturer of Firearms
  - Type 08, Importer of Firearms

There are three additional licenses that would allow an NRC licensee to deal in, manufacture, or import firearms including destructive devices but, as I understand, destructive devices will not be approved by the NRC

Next Step

- Having the Federal firearms license (FFL) allows the holder to deal in, manufacture, or import conventional firearms
- To be able to deal in, manufacture, or import NFA firearms, the FFL must also pay an annual special (occupational) tax (SOT)

NFA Special Tax

- Three classes of tax:
  - Importer $1000 per year
  - Manufacturer $1000 per year
  - Dealer $500 per year
  - There is a reduced rate of $500
- The class paid must match the type of FFL
- Tax year begins July 1st of each year and is not prorated
- Tax is paid by filing ATF Form 5630.7, Special Tax Return

Benefits

- As an FFL, the NRC licensee can receive firearms interstate (a non-licensee cannot receive firearms interstate)
- As an FFL/SOT, transfers to the NRC licensee from another qualified FFL are tax exempt
- An FFL/SOT may have exemptions under State or local law where the possession of a firearm may be prohibited by individuals
- An FFL/SOT is exempt from the requirements of 27 CFR 478.28 to obtain ATF permission to move machineguns and short-barreled rifles and shotguns interstate

Cons

- An FFL is subject to ATF inspection
- An FFL must maintain the records required by the GCA
- ATF Ruling 76-22 applies – the FFL/SOT must be in business and not merely pay the SOT to avoid payment of the transfer taxes. If we determine that the proposed transferee is not in business, the application will be denied. Firearms that had been received may be subject to seizure as having been unlawfully transferred without payment of transfer tax.

Non-FFL

- The NRC licensee may choose not to become an FFL and acquire the NFA firearms on a tax paid basis
- Pros: no ATF inspection
- Cons: Transfer tax paid on each transfer
  - Can only receive firearms from in-state FFL
  - Must receive ATF permission to move NFA firearms interstate

Process - NFA Forms

- Form 3 (5320.3), Application for Tax-Exempt Transfer of Firearm and Registration to Special Occupational Taxpayer
- Form 4 (5320.4), Application for Tax Paid Transfer and Registration of Firearm
- Form 5630.7, Special Tax Return (NFA)

Process - Short Barreled Rifles and Shotguns

- If the NRC licensee is an FFL/SOT, then whoever is the supplier (also an FFL/SOT) in any State would apply on ATF Form 3 for the transfer to the NRC licensee
- If the NRC is not an FFL/SOT, then if the supplier is located out of state, the supplier must first transfer the firearms to an FFL/SOT in the NRC's state; then the FFL/SOT would apply on ATF 4 for the transfer to the NRC licensee
- The transfer tax of $200 per firearm would be submitted with the Form 4

Process - Machineguns

- The same transfer process, in general, would be followed.
- However, in both cases, the authorizations from the NRC would have to be provided, showing the number and models of the machineguns to be acquired.

Process - Machineguns

- If the NRC licensee is an FFL/SOT, the NRC authorization must be submitted in support of the Form 3 for the transfer of the machineguns.
- If the NRC licensee is not an FFL/SOT, then the NRC authorization must be submitted in support of the Form 3 for the transfer of the machineguns to the in-state FFL/SOT
- The reason for this is that the in-state FFL is limited on the number of machineguns that he or she can possess and can only acquire one as a sample unless there is the authorization showing that the machineguns are for a qualified end-user

Process - Machineguns

- After the in-state FFL/SOT receives the machineguns, the in-state FFL would apply on Form 4 for the transfer to the NRC licensee. The authorization must be submitted with the Form 4 application.

Examples of Forms 3 and 4

- A separate PDF will be shown to show how each form looks when submitted and how each form looks when approved
- For the approved forms, note that a stamping has been made in the approval block reading:
  - RESTRICTED REGISTRATION-Possession limited to continued compliance with provisions of Public Law 99-308
- This shows the machinegun is subject to 922(o)
- For the form 4, a $200 tax stamp has been affixed

Contact Information

- Edward Saavedra, Chief, National Firearms Act Branch
- 244 Needy Road, Martinsburg, WV 25405
- (304) 616-4500
- (304) 616-4501 (fax)
- Amy Stely, Specialist, for SOT questions