



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Office of the Director

Washington, DC 20226

18 U.S.C. 922(a)(3): PROHIBITED TRANSPORTATION OR RECEIPT
18 U.S.C. 922(a)(5): PROHIBITED TRANSFER BY NON-LICENSEE
18 U.S.C. 922(a)(9): PROHIBITED RECEIPT BY NON-RESIDENT
18 U.S.C. 922(b)(3): PROHIBITED TRANSFER BY LICENSEE
18 U.S.C. 922(t): REQUIREMENTS TO TRANSFER FIREARMS
27 CFR 478.11: DEFINITIONS (STATE OF RESIDENCE)
27 CFR 478.11: DEFINITIONS (IDENTIFICATION DOCUMENT)
27 CFR 478.124: FIREARMS TRANSACTION RECORD

For the purpose of acquiring firearms under the Gun Control Act of 1968, a United States citizen who temporarily resides in a foreign country, but who also demonstrates the intention of making a home in a particular State, is a resident of the State during the time period he or she actually resides in that State. The intention of making a home in a State must be demonstrated to a Federal firearms licensee by presenting valid identification documents. Such documents include, but are not limited to, driver's licenses, voter registration, tax records, or vehicle registration.

ATF Rul. 2010-6

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has received inquiries seeking clarification as to whether, under Federal law, United States citizens who maintain residences in both a foreign country and a particular State may purchase firearms while in the State.

The Gun Control Act of 1968 (GCA), as amended, Title 18, United States Code (U.S.C.), section 922(a)(3) prohibits any person not licensed under the GCA (nonlicensees) from receiving any firearm purchased or otherwise obtained by such person outside the State in which the person resides. Furthermore, section 922(a)(9) provides, in part, that it is unlawful for any unlicensed person who does not reside in any State to receive any firearm unless such receipt is for lawful sporting purposes. Pursuant to section 922(b)(3), the GCA also prohibits licensees from selling or delivering firearms to any person who the licensee knows or has reasonable cause to believe does not reside in the State in which the licensee's place of business is located. Section 922(a)(5) extends the prohibition, with some limited exceptions, to any unlicensed person transferring a firearm to anyone who the transferor knows or has reasonable cause to believe does not reside in the transferor's State of residence.

A person's "State of residence" is defined by regulation in 27 CFR 478.11 as "the State in which an individual resides. An individual resides in a State if he or she is present in a

State with the intention of making a home in that State.” Ownership of a home or land within a given State is not sufficient, by itself, to establish a State of residence. However, ownership of a home or land within a particular State is not required to establish presence and intent to make a home in that State. Furthermore, temporary travel, such as short-term stays, vacations, or other transient acts in a State are not sufficient to establish a State of residence because the individual demonstrates no intention of making a home in that State.

To ensure compliance with this residency requirement, section 922(t) of the GCA requires licensees to examine a valid “identification document” (as defined in 18 U.S.C. 1028(d) and 27 CFR 478.11) of a firearm transferee. This document must contain the residence address of the transferee so that the licensee may verify the identity of the transferee and discern whether the transferee has the intention of making a home in a particular State. Licensees transferring a firearm to a person not licensed under the GCA are required, pursuant to 27 CFR 478.124, to record the firearm transaction on an ATF Form 4473, which requires, among other things, the transferee’s residence address, including the transferee’s State of residence as it appears on the valid identification document.

The term “identification document” is defined by 18 U.S.C. 1028(d)(3) as “a document made or issued by or under the authority of the United States Government, a State, political subdivision of a State . . . which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.” The regulations, 27 CFR 478.11, define the term “identification document” as “[a] document containing the name, residence address, date of birth, and photograph of the holder and which was made or issued by or under the authority of the United States Government, a State, political subdivision of a State . . . which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.” Identification documents include, but are not limited to, a driver’s license, voter registration, tax records, or vehicle registration. As explained in ATF Ruling 2001-5 (ATFQB 2001-4, 37), a combination of valid government documents may be used to satisfy the GCA’s State residency requirement.

ATF has previously addressed the eligibility of individuals to acquire firearms who maintain residences in more than one State. Federal regulations at 27 CFR 478.11 (definition of State of Residence), Example 2, clarify that a U.S. citizen with homes in two States may, during the period of time the person actually resides in a particular State, purchase a firearm in that State. *See also* ATF Publication 5300.4 (2005), Question and Answer B12, page 179. Similarly, in ATF Ruling 80-21 (ATFB 1980-4, 25), ATF held that, during the time college students actually reside in a college dormitory or at an off-campus location, they are considered residents of the State where the on-campus or off-campus housing is located.

The same reasoning applies to citizens of the United States who reside temporarily outside of the country for extended periods of time, but who also maintain residency in a particular State. Where a citizen temporarily resides outside of the country, but also has the intention of making a home in a particular State, the citizen is a resident of the State during the time he or she actually resides in that State. In acquiring a firearm, the individual must

demonstrate to the transferor-licensee that he or she is a resident of the State by presenting valid identification documents.

Held, for the purpose of acquiring firearms under the Gun Control Act of 1968, a United States citizen who temporarily resides in a foreign country, but who also demonstrates the intention of making a home in a particular State, is a resident of the State during the time period he or she actually resides in that State.

Held further, the intention of making a home in a State must be demonstrated to a Federal firearms licensee by presenting valid identification documents. Such documents include, but are not limited to, driver's licenses, voter registration, tax records, or vehicle registration.

Date approved: November 10, 2010

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