



Department of the Treasury

Bureau of Alcohol, Tobacco and Firearms

Washington, DC 20226

September 5, 1999

Transfers of National Firearms Act Firearms in Decedents' Estates

The National Firearms Act (NFA) Branch continually responds to questions regarding NFA firearms in decedent's estates. We often find that Federal firearms licensees are involved in assisting the executors in disposing of these firearms. We believe some general information and discussion of procedures will help licensees in these situations.

As you may be aware, the registration information we maintain is tax information and any disclosure of this information is generally prohibited. We may lawfully provide registration information to the executor of an estate. If there is any question regarding the registration status of the firearms in the estate for which you are assisting the executor, advise the executor to contact the NFA Branch directly and provide proof of his or her appointment as executor.

If there are unregistered NFA firearms in the estate, these firearms are contraband and cannot be registered by the estate. The executor of the estate should contact the local ATF office to arrange for the abandonment of the unregistered firearms.

For registered NFA firearms in the estate, the executor should take action as soon as possible to arrange for the proper registration of the firearms. Possession of an NFA firearm not registered to the possessor is a violation of Federal law and the firearm is subject to seizure and forfeiture. However, we do allow the executor a reasonable time to arrange for the transfer of the registered firearms in a decedent's estate. This generally should be done before probate is closed.

It is the responsibility of the executor of the estate to maintain custody and control of the firearms and to transfer the firearms registered to the decedent. The firearms may not be transferred to another party, such as a firearms licensee, for consignment or safekeeping. This would be a transfer subject to the requirements of the NFA. The licensee may assist the executor by identifying purchasers and acting as a broker.

The firearms may be transferred on a tax-exempt basis to a lawful heir. The executor would apply on ATF Form 5, Application for Tax Exempt Transfer and Registration of a Firearm, for a tax-exempt transfer to a lawful heir. A lawful heir is anyone named in the decedent's will or, in the absence of a will, anyone entitled to inherit under the laws of the State in which the decedent last resided. NFA firearms may be transferred directly interstate to a beneficiary of the estate. When a firearm is being transferred to an individual heir, his or her fingerprints on FBI Forms

FD-258 must accompany the transfer application. However, if any Federal, State or local law prohibits the heir from receiving or possessing the firearm, ATF will not approve the application.

ATF Form 4 is used to apply for the taxpaid transfer of a serviceable NFA firearm to a person outside the estate (not a beneficiary). ATF Form 5 is also used to apply for the tax-exempt transfer of an unserviceable NFA firearm to a person outside the estate. As noted above, all requirements, such as fingerprint cards for transfers to individuals and compliance with State or local law, must be met before an application may be approved. If an NFA firearm in the estate was imported for use as a “sales sample,” this restriction on the firearm’s possession remains. The NFA firearm may only be transferred to a Federal firearms licensee who has paid the special (occupational) tax to deal in NFA firearms or to a government agency.

For further information, contact:

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Revised: February 23, 2006