

CHAPTER 4. TAXES IMPOSED BY THE NFA

Section 4.1 Taxes

The NFA imposes tax on the making and transfer of firearms. The Act also requires annual payment of a special (occupational) tax (SOT) by licensees engaged in the business of manufacturing, dealing in, or importing NFA firearms. The NFA also provides for exemptions from the making, transfer, and special (occupational) taxes in specific situations.

4.1.1 Making tax. A tax of \$200 is imposed on the making of all NFA firearms made by other than qualified manufacturers of firearms.⁵⁶ The tax must be paid prior to making the firearm. Payment of the making tax is submitted with the Application to Make and Register a Firearm (ATF Form 1). See Appendix C for a copy of Form 1. The making tax is also imposed when a registered, unserviceable NFA firearm is reactivated.⁵⁷ See the exemptions from tax discussed in Section 4.2.1.

4.1.2 Transfer tax. Transfer of a serviceable NFA firearm is subject to the transfer tax.⁵⁸ The tax must be paid prior to the transfer. Payment of the tax is submitted with the Application to Transfer and Register a Firearm (ATF Form 4). See Appendix C for a copy of Form 4. ATF will accept payment of the tax from either the transferor or transferee. The tax on the transfer of short barrel shotguns, short barrel rifles, machineguns, silencers and destructive devices is \$200. The transfer tax for firearms classified as “any other weapon” is \$5. See the exemptions from tax discussed in Section 4.2.2.

NOTE: there is often confusion concerning the tax on “any other weapons.” The majority of NFA weapons are subject to a making tax of \$200 and a transfer tax of \$200. Many individuals have the mistaken belief that the rate of tax for making an “any other weapon” is \$5 because the transfer tax on “any other weapons” is \$5. As discussed in Section 4.1.1, the making tax on all types of NFA firearms is \$200.

4.1.3 Special (occupational) tax. On first engaging in business, each importer, manufacturer, and dealer in NFA firearms must pay a special (occupational) tax for each place of business.⁵⁹ Special tax is paid by return, specifically ATF Form 5630.7, Special Tax Registration and Return. Appendix C contains a copy of the return. Subsequent to the initial payment of the SOT, the tax is due on or before July 1 of each year. The rate of tax for importers and manufacturers is \$1000 per year. The rate of tax for dealers is \$500 per year. The NFA provides a reduced rate of SOT for importers and manufacturers whose gross receipts for the most recent taxable year are less than \$500,000.⁶⁰ See the exemptions from tax discussed in Section 4.2.3.

⁵⁶ 26 U.S.C. 5821

⁵⁷ ATF Form 1 (5320.1), Instruction k

⁵⁸ 26 U.S.C. 5811

⁵⁹ 26 U.S.C. 5801

⁶⁰ 26 U.S.C. 5801(b)(1)

Section 4.2 Exemptions from tax

4.2.1 Making tax. A manufacturer who has paid the SOT is exempt from payment of the making tax.⁶¹ Likewise, there is no making tax imposed on the making of an NFA firearm by or on behalf of a Federal or State agency.⁶²

4.2.2 Transfer tax. Transfers of registered firearms between SOTs are exempt from the transfer tax.⁶³ Likewise, there is no transfer tax imposed on the transfer of firearms to a Federal or State agency.⁶⁴

4.2.2.1 Unserviceable firearms. An unserviceable firearm may be transferred as a curio or ornament without payment of the transfer tax.⁶⁵

4.2.3 Special (occupational) tax. A person required to pay SOT is exempt from the tax if it is established that the business is conducted exclusively with, or on behalf of, an agency of the United States.⁶⁶ This exemption must be obtained by filing a letter application addressed to the NFA Branch setting out the manner in which the applicant conducts business, the type of firearms to be manufactured, and satisfactory proof of the existence of the applicant's contract with the Government.⁶⁷ This exemption must be renewed by letter on or before July of each year. Approval of the application entitles the applicant to the exemption.

4.2.4 Exportation of firearms. An NFA firearm may be exported without payment of the transfer tax provided that proof of the exportation is furnished in such form and manner as the regulations prescribe.⁶⁸ The form to be filed is ATF Form 9 (Firearms), Application and Permit for Exportation of Firearms.⁶⁹ See Appendix C for a copy of the form. Approval of the form by ATF is required before exportation. *NOTE: exportation of NFA firearms without an approved Form 9 will subject their registered owner to NFA transfer tax.*

⁶¹ 26 U.S. 5852(c)

⁶² 26 U.S.C. 5852(b), 5853(b)

⁶³ 26 U.S.C. 5852(d)

⁶⁴ 26 U.S.C. 5852(a), 5853(a)

⁶⁵ 26 U.S.C. 5852(e)

⁶⁶ 26 U.S.C. 5851

⁶⁷ 27 CFR 479.33

⁶⁸ 26 U.S.C. 5854

⁶⁹ 27 CFR 479.114