



Bureau of Alcohol, Tobacco, Firearms
and Explosives

DO I NEED A LICENSE TO BUY AND SELL FIREARMS?

**Guidance to help you
understand when a federal
firearms license as a dealer
is required under federal law.**

Small Business Administration Guidance to 27 CFR 478.11
and 13 as revised by ATF final rule 2022R-17 (89 FR
28968, April 19, 2024)

Updated May 2024*

The guidance set forth herein has no regulatory legal effect and is not intended to create or confer any rights, privileges, or benefits in any matter, case, or proceeding. See *United States v. Caceres*, 440 U.S. 741 (1979). The text of the statute is binding and nothing in this guidance can or should be read to contradict or otherwise be inconsistent with the Gun Control Act.

This guidance reflects amendments to Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) regulations made through ATF final rule 2022R-17 (89 FR 28968, April 19, 2024). Litigation has been filed against ATF and the U.S. Department of Justice challenging that rule, and ATF and the U.S. Department of Justice are complying with all court orders issued in such litigation. For more information, see **Final Rule: Definition of “Engaged in the Business” as a Dealer in Firearms | Bureau of Alcohol, Tobacco, Firearms and Explosives (atf.gov)**.

Key Points

- In 2022, the Bipartisan Safer Communities Act amended the Gun Control Act by, in part, expanding the definition of “engaged in the business” as a wholesale or retail dealer in firearms. This guidance has been updated to incorporate the statutory amendments and corresponding regulatory revisions. If you previously reviewed the guidance and determined that you did not need a license, you should review it again to be sure your firearms activities do not require a license under the new statutory definition.
- Federal law requires that persons who are engaged in the business of dealing in firearms be licensed by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). The penalty for dealing in firearms without a license is up to five years in prison, a fine up to \$250,000, or both, and the firearms involved or used in this offense are subject to seizure and forfeiture.
- A person can be engaged in the business of dealing in firearms regardless of the location in which they conduct their business. For example, a person can be engaged in the business of dealing in firearms at a gun show or event, flea market, auction house, or gun range or club; at home; by mail order; over the Internet (e.g., online broker or auction); through the use of other electronic means (e.g., text messaging service, social media raffle, or website); or at any other domestic or international public or private marketplace or premises.
- A person can be engaged in the business of dealing in firearms regardless of the method of payment in which they conduct their business. For example, a person can be engaged in the business of dealing in firearms if they are bartering or they provide or receive services in exchange for firearms, directly or indirectly, with the predominant intent to earn pecuniary gain – even where no money is exchanged, or the medium of payment is unlawful, such as illicit drugs.
- Whether you are engaged in the business of dealing in firearms depends on the specific facts and circumstances of your activities. While quantity and frequency of sales can be relevant indicators of when a person may be engaged in the business, they are not the only facts to consider. For example, even if a person sold only a few firearms, or only a single firearm transaction was completed, if the person also represented to others a willingness and ability to purchase more firearms for resale, they would likely be engaged in the business.

- You will need a license if you are devoting time, attention, and labor to dealing in firearms as a regular course of trade or business to predominantly earn a profit through the repetitive purchase and resale of firearms. (Note that this reflects a change made in 2022 by the Bipartisan Safer Communities Act (BSCA), broadening the definition from the previous general rule that you would need a license if you intended to buy and sell firearms “with the principal objective of livelihood and profit”). By contrast, if you make only occasional resales of firearms to enhance your personal collection or if you liquidate your personal collection (without restocking), you do not need to be licensed.
- A “personal collection” consists of personal firearms that a person accumulates for study, comparison, exhibition (*e.g.*, collecting curios or relics, or collecting unique firearms to exhibit at gun club events), or for a hobby (*e.g.*, noncommercial, recreational activities for personal enjoyment, such as hunting, skeet, target, or competition shooting, historical re-enactment, or noncommercial firearms safety instruction).
- Firearms you accumulate primarily for personal protection are not part of a “personal collection.” However, this does not preclude you from lawfully purchasing firearms for self-protection, or making isolated sales of those firearms without devoting time, attention, and labor to dealing in firearms as a regular course of trade or business.
- ATF regulations at 27 CFR 478.13 set forth specific activities to help determine when purchasing and reselling firearms rises to the level of being engaged in the business as a dealer, and when a person has the intent to predominantly earn a profit through repetitive purchase and resale of firearms. The regulations also set forth how these activities will be used as rebuttable presumptions in civil and administrative proceedings.

Any person who has questions about whether they need a license under federal law should contact their local ATF office (<https://www.atf.gov>).

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INTRODUCTION



Federal firearms licensees
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Introduction

The Gun Control Act (GCA) requires that any person engaged in the business of dealing in firearms must be licensed by ATF, pursuant to 18 U.S.C. §§ 922(a)(1) and 923(a). Federal firearms licensees (FFLs) are critical in promoting public safety because—among other things—they help keep firearms out of the hands of prohibited persons by: running background checks on potential firearms purchasers, preventing straw purchasers from acquiring firearms for criminals, ensuring that firearms used in crimes can be traced by police back to their first retail purchaser by keeping records of transactions, facilitating safe storage of firearms by providing child safety locks with every transferred handgun, and having secure gun storage or safety locks available any place where they resell firearms. A person who willfully engages in the business of dealing in firearms without the required license is subject to criminal prosecution and can be sentenced to up to five years in prison, fined up to \$250,000, or both. See 18 U.S.C. § 922(a)(1)(A). Firearms involved or used in that violation are subject to seizure and forfeiture. See 18 U.S.C. § 924(d).

Determining whether your firearm-related activities require a license is a fact-specific inquiry. This guidance is intended to help you determine whether you need to be licensed under federal law.

Note that some states have more stringent laws with respect to when a state-issued license is required for reselling a firearm. Please consult the laws of the applicable state to ensure compliance.

There are other laws and regulations that govern the transfer of firearms—both between unlicensed individuals and from licensed dealers (e.g., unlicensed sellers may only lawfully resell to persons within their own state, and it is unlawful for either licensed or unlicensed sellers to resell firearms to persons they know or have reasonable cause to believe cannot lawfully possess them). **All persons who transfer firearms, regardless of whether they are engaged in the business of dealing in firearms, must ensure that any transfers are in compliance with federal, state, local, and tribal laws.**

* This guidance has been updated to reflect amendments made to the GCA's definition of "engaged in the business" by the Bipartisan Safer Communities Act (BSCA), Public Law 117-159 (June 25, 2022) and related changes to ATF's implementing regulations at 27 CFR 478, which were published in the *Federal Register* on April 19, 2024 (89 FR 28968; effective May 20, 2024).



LEGAL FRAMEWORK

Legal Framework

Q: Who needs a federal license to deal in firearms?

A: Under federal law, any person who engages in the business of dealing in firearms must be licensed. See 18 U.S.C. §§ 922(a)(1), 923(a), and 27 CFR 478.41. This includes any person who is a “dealer” as defined under 18 U.S.C. § 921(a)(11) and 27 CFR 478.11:

- (1) Any person engaged in the business of selling firearms at wholesale or retail (also referred to as “engaged in the business of dealing in firearms” or “engaged in the business as a dealer in firearms other than a gunsmith or pawnbroker”);
- (2) Any person engaged in the business of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms (referred to as a “gunsmith”); or
- (3) A pawnbroker in firearms.

This guidance focuses on the first category—persons engaged in the business of selling firearms at wholesale or retail, also commonly referred to as engaged in the business of dealing in firearms or engaged in the business as a dealer in firearms other than a gunsmith or pawnbroker.

Importers are engaged in the business of importing firearms and manufacturers are engaged in the business of manufacturing firearms, but those licenses also allow them to sell the types of firearms authorized by their importer’s or manufacturer’s license without having to obtain a separate dealer’s license. See 27 CFR 478.41. However, if they intend to engage in the business of selling types of firearms not authorized by their license, they must also obtain the applicable dealer’s license.

Q: What does it mean to be engaged in the business of dealing in firearms?

A: Under federal law at 18 U.S.C. § 921(a)(21)(C), a person engaged in the business of wholesale or retail dealing in firearms is:

A person who “devotes time, attention, and labor to dealing in firearms as a regular course of trade or business to predominantly earn a profit through the repetitive purchase and resale of firearms.”

Previously, the intent language was “with the principal objective of livelihood and profit” through the repetitive purchase and resale of firearms, but in 2022, the Bipartisan Safer Communities Act (BSCA) revised this intent language by replacing it with “to predominately earn a profit” through the repetitive purchase and resale of firearms.

Section 921(a)(22), as amended by BSCA, defines the term “to predominantly earn a profit” to mean:

“The intent underlying the sale or disposition of firearms is predominantly one of obtaining pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection.”

Section 921(a)(21)(C) explicitly provides, however, that the term “engaged in the business,” as it applies to a dealer in firearms, does not include a person who only “makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms.” Moreover, section 921(a)(22) also makes clear that proof of profit “shall not be required as to a person who engages in the regular and repetitive purchase and disposition of firearms for criminal purposes or terrorism.”

Q: Has ATF defined what it means to be engaged in the business of dealing in firearms?

A: Yes. ATF's regulations at 27 CFR 478.11 have long included definitions of "engaged in the business" for dealers, gunsmiths, importers, and manufacturers. In addition, after the BSCA amended the GCA in 2022, ATF revised its regulations at 27 CFR 478 to update the definition of "engaged in the business" as a wholesale or retail dealer (the definitions of "engaged in the business" as a gunsmith, importer, or manufacturer remained the same). On April 19, 2024, ATF published a final rule titled *Definition of "Engaged in the Business" as a Dealer in Firearms* (89 FR 28968; effective May 20, 2024). The final rule revised ATF's regulations at section 478.11 and added a new section 478.13 to incorporate the BSCA's definitions of "engaged in the business" as a dealer and "predominantly earn a profit," and to further clarify what it means for a person to be engaged in the business of dealing in firearms (at wholesale or retail) and to have the intent to predominantly earn a profit from reselling firearms.

A teal-tinted photograph of a modern building with a large entrance and several flagpoles in the foreground. The word "GUIDANCE" is overlaid in white, bold, uppercase letters in the center of the image.

GUIDANCE

Guidance

A. What activities generally constitute being engaged in the business as a dealer in firearms and require a dealer's license?

Federal law does not establish a “bright line” rule for when a federal firearms license is required for a dealer in firearms. In the federal statute, there is no specific threshold number or frequency of sales, quantity of firearms, or amount of profit or time invested that triggers the licensure requirement. Determining whether you are engaged in the business of dealing in firearms requires looking at the specific facts and circumstances of your activities.

You generally will need a license if you intend to repetitively purchase and resell firearms to predominantly earn a profit and devote time, attention, or labor to that activity as part of a regular course of trade or business, even if your firearms business will be part-time. By contrast, if you make only occasional resales of different firearms to enhance your personal collection or for a hobby, you likely do not need to be licensed. In either case, all of your firearm transactions are relevant, regardless of their location or medium; it does not matter whether you conduct sales out of your home, at gun shows, flea markets, through the Internet, or by other means.

Note that a Collector of Curios and Relics (C&R) license does not authorize the licensee to repetitively purchase and resell firearms with the intent to predominantly earn a profit, as opposed to enhancing one's collection. It does not matter if the firearms being bought and sold are curios or relics, or newer firearms. If a C&R licensee wishes to engage in the business of dealing in firearms, the licensee must also apply for—and obtain—a different type of license that allows this activity. See 27 CFR 478.41(c) and (d).

B. What does it mean to purchase or sell/resell firearms or to exchange something of value?

For purposes of determining whether you are engaged in the business, the terms “purchase” and “sale” (and derivative terms thereof, such as “purchases,” “purchasing,” etc.), and “something of value” are defined in 27 CFR 478.11 under paragraph (7) *Related definitions*, of “engaged in the business.” The definition of “sale” also defines the term “resale.” To further clarify, this section of the regulation also defines the term “something of value,” which is used in both definitions and in a presumption.

- The term “purchase” (and derivative terms thereof) means “the act of obtaining a firearm in an agreed exchange for something of value.” Receiving a firearm as a bona fide gift, therefore, is not a purchase, nor is inheriting a firearm. But receiving a firearm in exchange for something of value (e.g., a seat behind the dugout at a World Series baseball game) is a purchase.
- The term “sale” (and derivative terms thereof) means “the act of disposing of a firearm in an agreed exchange for something of value,” and the term “resale” means “selling a firearm, including a stolen firearm, after it was previously sold by the original manufacturer or any other person.” Thus, any sale you make of a firearm that has been previously sold is a resale. This includes selling a firearm someone purchases and gives you as a gift, or a firearm someone made and gave you in exchange for something of value.
- The term “something of value” means “money, credit, personal property (e.g., another firearm or ammunition), a service, a controlled substance, or any other medium of exchange or valuable consideration, legal or illegal.” This can include indirect payments like exchanging a firearm to pay a drug debt your brother owes someone else, or services such as exchanging a firearm for carpentry work next month on your new deck.



C. What is a personal collection?

Standing alone, simply possessing a group of firearms does not mean that a person is a bona fide collector or that the firearms are part of a “personal collection.”

A “personal collection” is defined in federal regulations at 27 CFR 478.11 as “Personal firearms that a person accumulates for study, comparison, exhibition (e.g., collecting curios or relics, or collecting unique firearms to exhibit at gun club events), or for a hobby (e.g., noncommercial, recreational activities for personal enjoyment, such as hunting, skeet, target, or competition shooting, historical re-enactment, or noncommercial firearms safety instruction).”

The term does not include any firearm purchased for the purpose of resale with the predominant intent to earn a profit (e.g., primarily for a commercial purpose or financial gain, as distinguished from personal firearms a person accumulates for study, comparison, exhibition, or for a hobby, but which the person may also intend to increase in value).

While firearms accumulated primarily for personal protection are not included in the definition of “personal collection,” nothing in the definition precludes a person from lawfully acquiring firearms for self-protection or other lawful personal use. The regulations also do not preclude a person from making isolated sales of such firearms. If you resell these firearms, however, you cannot make use of the personal collection exemption contained in the definition of “engaged in the business” as a dealer to show that you are not engaged in the business. But you can use other reliable evidence that you are not dealing in firearms, as outlined in section H below.

D. What if I resell firearms only at flea markets, gun shows, or over the Internet?

A person can be engaged in the business of dealing in firearms regardless of the location in which they conduct firearms transactions, including situations in which the person conducts firearms transactions from a location other than a traditional brick-and-mortar store. For example, a person can be engaged in the business of dealing in firearms at a gun show or event, flea market, auction house, or gun range or club; at home; by mail order; over the Internet (e.g., online broker or auction); through the use of other electronic means (e.g., text messaging service, social media raffle, or website); or at any other domestic or international public or private marketplace or premises.



Many licensed gun dealers conduct business at temporary locations such as qualified gun shows or events and use the Internet to facilitate firearms transactions. The question under federal law is not where or using what medium firearms transactions are conducted, but rather, whether—under a totality of the circumstances—the person conducting those transactions is engaged in the business of dealing in firearms. The next parts of this Guidance section will help you make that determination, regardless of where or on what platform those transactions occur.

A person can also be engaged in the business of dealing in firearms regardless of the method of payment in which they conduct firearms transactions. For example, a person can be engaged in the business of dealing in firearms if they are bartering or provide services in exchange for firearms, directly or indirectly, with the predominant intent to earn pecuniary gain—even where no cash is exchanged, or the medium of payment is unlawful, such as illicit drugs.

The growth of new communications technologies and e-commerce enables sellers of firearms to advertise to an expansive market at minimal cost. While a bona fide collector or hobbyist may use the Internet and other communication technology to resell a firearm without a license (provided that they comply with all other federal, state, and local laws and regulations), those engaged in the business of dealing in firearms who use the Internet or other technologies must obtain a license, just like a dealer whose business is run out of a traditional brick and mortar store. Nonetheless, the law requires that, regardless of the location or the medium a dealer uses to purchase and resell firearms, to obtain a license, the dealer must have a fixed premises from which to conduct business and must comply with state and local laws regarding the conduct of that business.

See 18 U.S.C. § 923(d)(1)(E); 27 CFR 478.47(b)(5) and 478.50.

E. How do I determine whether I am engaged in the business as a dealer?

You should assess whether you will be devoting time, attention, and labor to dealing in firearms as a regular course of trade or business, including whether you have predominant intent to earn a profit from firearms purchases and resales. This would include the time, effort, and money you will expend to locate, purchase, and store firearms, and to find buyers for those firearms, among other activities.



To aid you in making this assessment, federal regulations at 27 CFR 478.13(c) now list specific activities demonstrating when reselling firearms presumptively rises to that level (and these presumptions apply in proceedings as set forth in Section F below). Engaging in any of the activities described in a presumption under the “engaged in the business” definition in section 478.13(c) (EIB presumptions) means that you are presumed to need a federal firearms license unless reliable evidence shows that you are not engaged in the business of dealing firearms.

Similarly, engaging in any of the activities described in a presumption under the “predominantly earn a profit” definition in section 478.13(d) (PEP presumptions) means that you are presumed to have the intent to predominantly earn a profit unless reliable evidence indicates to the contrary. In other words, when reliable evidence shows conduct falling under one of the PEP presumptions, it indicates that the person has taken at least preliminary steps to be engaged in the business requiring a license.

In addition, this guidance provides an example section below that you can use in assessing whether you need a license.

F. How are the rebuttable presumptions used in proceedings?

The EIB and PEP rebuttable presumptions will be used in civil and administrative proceedings to show that a person is engaged in the business as a dealer without the required license. They do not contain the only relevant conduct by which the government can show that a person is engaged in the business without a license, but they include some of the most common conduct that courts have found to indicate that a person is engaged in the business as a dealer.

These rebuttable presumptions do not apply to any criminal case, although they may be useful to courts in criminal cases, for example when instructing juries regarding permissible inferences.

Each EIB or PEP presumption is rebuttable because the person doing the action can refute the presumption by showing, with reliable evidence, that they were not engaged in the business or did not resell firearms with the purpose or intent to predominantly earn a profit.

G. Presumptions that a person is engaged in the business as a dealer (EIB presumptions)

Federal regulations at 27 CFR 478.13(c) now list specific activities demonstrating when reselling firearms presumptively rises to the level of being engaged in the business as a dealer (and these presumptions apply in proceedings as set forth in Section F above). -However, these EIB presumptions are not exhaustive of the conduct or evidence that may be considered in determining whether a person is engaged in the business of dealing in firearms, and they may be rebutted with reliable evidence to the contrary. These activities are as follows:

- **Are you reselling firearms and representing yourself as a dealer in firearms?**

[27 CFR 478.13(c)(1)]

Perhaps the clearest indication of whether a person is engaged in the business of dealing in firearms can be found in what they represent to others. For this reason, a person is presumed to be engaged in the business when the person resells or offers for resale firearms (e.g., by taking orders), *and* also represents to potential buyers or otherwise demonstrates a willingness and ability to purchase and resell additional firearms (*i.e.*, to be a source of additional firearms).

- **Are you repetitively purchasing and reselling firearms within 30 days?**

[27 CFR 478.13(c)(3)(i)]

Another strong indicator that a person is dealing in firearms is that they are repetitively reselling firearms within a relatively short time from when they were purchased. Repetitive resales within a short period are more consistent with profit-based business activity than with collecting, especially when a firearm could be returned but is resold instead. As a result, a person is presumed to be engaged in the business when the person repetitively resells or offers for resale firearms (e.g., takes orders) within 30 days from the date of purchase.

- **Are you repetitively purchasing and reselling firearms that are new or in like-new condition in their original packaging, or that are the same make and model (or variants of that make and model) within one year?**

[27 CFR 478.13(c)(3)(ii)]

Persons engaged in the business often can earn the greatest profit by reselling firearms in the best (*i.e.*, in a new or like-new) condition, or by repetitively reselling the particular makes and models of firearms that their customers most want. At the same time, it is unlikely that persons who collect the same makes and models of firearms (or variants¹ thereof) or collect new or like-new firearms for study, comparison, exhibition, or for a hobby, will repetitively resell them within one year after they were purchased. A person is therefore presumed to be engaged in the business when the person repetitively resells or offers for resale firearms within one year from the date of purchase, if they are: (a) new, or like new in their original packaging, or (b) the same make and model, or variants of that make and model. A person who intentionally stockpiles and sells new or like-new firearms, or the same make and model or variants thereof, with an intent to evade the one-year turnover limitation may still be considered to be engaged in the business if circumstances warrant that determination.

In addition, the regulation includes two other categories of activities that are themselves unlawful and give rise to a presumption of being engaged in the business as a dealer: repetitively purchasing and reselling firearms as a straw purchaser or through a sham business [27 CFR 478.13(c)(2)(i)], and repetitively purchasing and reselling firearms with serial numbers removed or altered, that are improperly imported, that are stolen, or that otherwise cannot lawfully be purchased, received, or possessed under federal, state, local, or tribal law [27 CFR 478.13(c)(2)(ii)].²

Other activities not included in these presumptions can qualify as being engaged in the business as a dealer if those activities demonstrate that the person is devoting time, attention, and labor toward dealing in firearms as a regular course of trade or business with predominant intent to profit through repetitive purchase and resale of firearms.

1 The term “variant” is already defined in 27 CFR 478.12(a)(3) to mean “a weapon utilizing a similar frame or receiver design, irrespective of new or different model designations or configurations, characteristics, features, components, accessories, or attachments.” Thus, to identify a “variant” of a particular make and model, the design of the frame or receiver of one firearm is compared to the design of the frame or receiver of the other firearm, regardless of newer model designations or configurations other than the frame or receiver.

2 The regulations contain two other EIB presumptions that focus on former licensees whose licenses have terminated due to license revocation, denial of license renewal, license expiration, or surrender of license. See 27 CFR 478.13(c)(4) (former licensee reselling business inventory) and (5) (former licensee reselling firearms transferred to personal collection or otherwise as personal firearms under certain circumstances).

H. Presumptions that a person intends to predominantly earn a profit from dealing (PEP presumptions)

Federal regulations at 27 CFR 478.13(d) now list specific activities demonstrating when a person's conduct presumptively shows the predominant intent to earn a profit from repetitive resales of firearms, which is one of the elements of being engaged in the business as a dealer in firearms (these presumptions also apply in proceedings as set forth in Section F above). While these PEP presumptions alone do not conclusively determine that a person is engaged in the business, they represent preliminary steps that persons commonly take to be engaged in the business. Again, these presumptions are not exhaustive of the conduct or evidence that may be considered in determining whether a person has predominant intent to profit from firearms sales, and they may be rebutted with reliable evidence to the contrary. These activities are as follows:

- **Are you repetitively or continuously advertising or promoting a firearms business?**

[27 CFR 478.13(d)(2)(i)]

Repetitively or continuously advertising or promoting a firearms business presumptively demonstrates an intent to predominantly earn a profit. Advertising or promoting a firearms business has long been recognized as a primary way of increasing sales and profits. Because promoting a firearms business requires investing time and money, persons typically do not engage in such activities without intending to profit from resulting sales and recoup potential advertising costs in the process. For this reason, a person is presumed to have the intent to predominantly earn a profit through the repetitive purchase and resale of firearms when they repetitively or continuously advertise, market, or otherwise promote a firearms business (*e.g.*, advertise or post firearms for resale, including through the Internet or other digital means, establish a website to offer their firearms for resale, make available business cards, or tag firearms with sales prices), regardless of whether the person incurs expenses or only promotes the business informally.

- **Are you repetitively or continuously securing permanent or temporary physical space at a cost to display firearms for resale?**

[27 CFR 478.13(d)(2)(ii)]

Persons who repetitively or continuously secure permanent or temporary physical space at a cost to display firearms they offer for resale generally intend to predominantly earn a profit from those sales. This cost could be indirect and include nontraditional commercial arrangement to secure display space, such as by charging a higher membership or admission fee in exchange for “free” display space. For this reason, a person is presumed to have the intent to predominantly earn a profit through the repetitive purchase and resale of firearms when they repetitively or continuously purchase, rent, or otherwise exchange (directly or indirectly) something of value to secure permanent or temporary physical space to display firearms they offer for resale, including part or all of a business premises, a table or space at a gun show, or a display case. This does not include securing physical space to store a personal collection or personal firearms.

- **Are you making and maintaining records of profits and losses from repetitive resales of firearms?**

[27 CFR 478.13(d)(2)(iii)]

The purpose of making or maintaining a record of profits and losses is to document profits or other pecuniary gain from firearms transactions as opposed to general recordkeeping of a firearms inventory or merely the cost of obtaining the firearms. For this reason, a person is presumed to have the intent to predominantly earn a profit through the repetitive purchase and resale of firearms when they make and maintain records to document, track, or calculate profits and losses from firearms repetitively purchased for resale.

- **Are you securing merchant services as a business through which you intend to repetitively accept payments for firearms transactions?**

[27 CFR 478.13(d)(2)(iv)]

The manner in which merchants accept payments is a strong indicator of predominant intent to earn a profit. Private citizens generally do not sign up for credit card processing services. In contrast, merchants are persons engaged in a profit-making business, and merchant services are designed to accept payments on behalf of profit-seeking sellers. Consequently, a person is presumed to have the intent to predominantly earn a profit through the repetitive purchase and resale of firearms when they purchase or otherwise secure merchant services as a business (e.g., credit card transaction services, digital wallet for business) through which the person intends to repetitively accept payments for firearms transactions.

- **Are you securing business security services to protect firearms assets and repetitive firearms transactions?**

[27 CFR 478.13(d)(2)(v)]

Firearms businesses routinely purchase or hire business security services to protect their business assets and transactions to avoid loss of firearms inventory and ensure the safety of their employees and customers when reselling firearms. For this reason, a person is presumed to have the intent to predominantly earn a profit through the repetitive purchase and resale of firearms when they formally or informally purchase, hire, or otherwise secure business security services (e.g., a central station-monitored security system registered to a business, or guards for security) to protect firearms assets and repetitive firearms transactions.

- **Will you establish a business entity, trade name, or business account through which you make repetitive firearms transactions?**

[27 CFR 478.13(d)(2)(vi)]

Establishing a business entity or account through which the person makes or offers to make repetitive firearms transactions is often a preliminary step to engaging in the business of dealing in firearms with the predominant intent to earn a profit. A separate business entity can potentially provide liability protection, which is particularly advantageous when selling dangerous instruments, like firearms. A business entity or account can make it easier to resell firearms for a profit and may provide certain discounts or benefits when doing so. Under these circumstances, a person is presumed to have the intent to predominantly earn a profit through the repetitive purchase and resale of firearms when they establish a business entity, trade name, or online business account, including an account using a business name on a social media or other website, through which the person makes, or offers to make, repetitive firearms transactions.

- **Have you applied for or secured a state or local business license to sell merchandise that includes firearms?**

[27 CFR 478.13(d)(2)(vii)]

A business license to sell firearms or merchandise that includes firearms is direct evidence of an intent to earn a profit from repeated firearms transactions. Indeed, a firearms business cannot operate lawfully without it. For this reason, a person is presumed to have the intent to predominantly earn a profit through the repetitive purchase and resale of firearms when they secure or apply for a state or local business license to purchase for resale or to resell merchandise that includes firearms.

I. Activities that *do not* support and may rebut a presumption of being engaged in the business

To provide additional guidance, federal regulations also list conduct that does *not* support any of the EIB or PEP presumptions. Specifically, under 27 CFR 478.13(e), when reliable evidence shows that a person is only reselling or otherwise transferring firearms under certain circumstances, that person is not presumed to be engaged in the business of dealing in firearms. As with the activities supporting the presumptions, this is not an all-inclusive list. These same circumstances can also be used, with reliable evidence, to rebut any of the EIB or PEP presumptions. The listed circumstances are as follows:

- **Are you only transferring firearms as bona fide gifts?**

[27 CFR 478.13(e)(1)]

Persons are not engaged in the business of dealing in firearms when only transferring them as bona fide gifts to another person because doing so is not a “sale” of a firearm. There is no “exchange” or payment of money, goods, or services for the firearm. Additionally, a person who is not otherwise engaged in the business as a dealer and truly intends to give a firearm as a gift does not ordinarily devote time, attention, and labor to firearms dealing as a trade or business or show the predominant intent to earn a profit through the repetitive purchase and resale of firearms. A gift is “bona fide” when it is given in good faith to another person without expecting any item, service, or anything of value in return.

- **Are you only reselling or transferring firearms occasionally to obtain more valuable, desirable, or useful firearms for your personal collection?**

[27 CFR 478.13(e)(2)]

Federal law, 18 U.S.C. § 921(a)(21)(C), has long recognized that occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby are not activities that alone are considered to be engaging in the business of dealing in firearms. Under federal regulations, firearms in a “personal collection” are personal firearms that a person accumulates for study, comparison, exhibition (e.g., collecting curios or relics, or collecting unique firearms to exhibit at gun club events), or for a hobby (e.g., noncommercial, recreational activities for personal enjoyment, such as hunting, skeet, target, or competition shooting, historical re-enactment, or noncommercial firearms safety instruction).

- **Are you only reselling or transferring firearms occasionally to a licensee or to a family member for lawful purposes?**

[27 CFR 478.13(e)(3)]

A person who only occasionally resells a firearm to a licensee is not likely to have predominant intent to earn a profit because a licensee typically will offer less than a non-licensee for the firearm given the licensee’s intent to earn a profit through resale. The same reasoning applies to family members because the seller is less likely to have predominant intent to earn a profit due to their pre-existing familial relationship (*i.e.*, a less than arms-length transaction).

- **Are you only reselling or transferring firearms to liquidate (without restocking) all or part of your personal collection?**

[27 CFR 478.13(e)(4)]

Like occasional sales to enhance a personal collection, federal law (18 U.S.C. § 921(a)(21)(C)), has long recognized that persons may liquidate all or part of a personal collection. Here, “liquidate” means to resell or otherwise dispose of the personal collection firearms without acquiring additional firearms for the inventory (*i.e.*, “restocking”).

- **Are you only liquidating firearms that are inherited, or liquidating firearms pursuant to a court order?**

[27 CFR 478.13(e)(5)]

The resale of inherited firearms and resale of firearms pursuant to a court order, whether or not they are part of a personal collection, are generally not made by a person who is devoting time, attention, and labor to dealing in firearms with predominant intent to profit. They were either acquired or are being sold due to operation of law through inheritance or a court proceeding.

- **Are you only liquidating firearms as an auctioneer when providing auction services on commission at an estate-type auction?**

Estate-type auctioneers are not required to be licensed because they are not devoting time, attention, and labor to dealing in firearms as a regular course of trade or business to predominantly earn a profit through the repetitive purchase and resale of firearms. They are instead providing services as an agent of the owner on commission. These auctioneers are not in the business of dealing in firearms and do not themselves purchase the firearms. The auctioned firearms are within the estate's control and the sales are made on the estate's behalf.

An "estate-type" auction differs from liquidating firearms through a "consignment-type" auction, in which the auctioneer is paid to accept firearms into a business inventory and then determines the manner in which to market and resell them on the consignor's behalf, frequently reselling them in lots or over a period of time. In this "consignment-type" auction, the auctioneer generally inventories, evaluates, and tags the firearms for identification. Therefore, under "consignment-type" auctions, the auctioneer would generally need to be licensed.

EXAMPLES



The following examples
show how factors identified
by federal courts apply to
common fact patterns....

Examples

While the determination of whether you require a federal firearms license is highly fact-specific, we provide the following examples to show how the presumptions described above apply to common fact patterns. **Of course, the existence or absence of other facts not included in the examples may change the conclusion as to whether you are engaged in the business and therefore must be licensed; hence, these examples are provided solely as general guidance. The terms of the GCA are always controlling, however.** For the purposes of these examples, assume that the sellers comply with all other relevant federal, state, local, and tribal laws and regulations (for example, the unlicensed person makes only lawful sales to persons who reside in the same state).

JULIAN inherits a collection of firearms from his grandfather. He posts them all online for resale and over the course of the next year, he resells all of these inherited firearms in a series of different transactions. Julian would not have needed a license because he was only liquidating inherited firearms.

KIERAN has a job, but to supplement his income he has been purchasing firearms from various people and reselling them through an Internet site. He has successfully sold a dozen firearms this way and has advertised that he is a source of more firearms for resale. Kieran would have needed to be licensed.

AHMAD enjoys hunting and owns a large personal collection of hunting rifles. He likes to own the newest models with the most current features. To pay for his new rifles, a few times a year Ahmad resells his older weapons and makes a profit. Ahmad would not have needed to be licensed because he was only occasionally reselling firearms to obtain more valuable, desirable, or useful firearms for his personal collection.

At the beginning of each month, **DANYA** travels to flea markets to purchase firearms. At the end of each month, Danya rents a booth at flea markets or gun shows and offers those recently purchased firearms for resale to earn money. Danya would have needed a license.

VIOLETTE regularly travels to gun shows around her state, rents space to sell firearms, offers for resale, and resells firearms under a banner stating, “liquidating personal collection.” All the firearms Violette offers for resale are the same make and model of handgun, and she purchased all of them in the past year. She continues to purchase more of these firearms in between the gun shows and offers them for sale as well. Violette would have needed a license. The fact that her banner falsely stated that she was liquidating a personal collection does not determine whether she needed a license.

ERIKA has three handguns for self-protection at home and decides that she no longer wants two of them. She posts advertisements in the local newspaper over several weeks and eventually resells the two handguns to a private collector for more than she paid for them. While Erika’s advertising conduct demonstrates a predominant intent to profit, she would not have needed a license because these facts do not also include conduct indicating that she was devoting time, attention, and labor to dealing as a regular course of trade or business.

EUGENE rents a table at gun shows every few weeks to display firearms for resale. He purchases firearms from a variety of sources, carefully logs each purchase, resale, and amount of profit into a book, and uses the purchase price to set a sales price that will realize him a net profit. Eugene also pays for credit card transaction services so that he can accept credit card payments for firearms, and typically resells multiple firearms at each of the gun shows he attends each year. Eugene would have had to be licensed.

To make some extra money, **ZOY** purchases firearms from a dealer who is willing to give her a discount, and she resells them for a profit to acquaintances. Zoey has done this a few times a month for the last several months and has been spreading the word that she is a source for other firearms, including by passing out business cards with her name, phone number, and email. Zoey would have needed a license.

CJ is a licensed auctioneer. Several times a year he holds dedicated firearms auctions at his business premises. The firearms included in these auctions are placed with CJ under a consignment agreement. To prepare for the auction, CJ takes the firearms into his inventory, conducts an evaluation, and tags them with an item number. CJ has the legal authority to determine how and when the firearms are sold and receives a portion of the sales price for his work. CJ would have had to obtain a license because he was taking the firearms into his inventory under his control, spending time and effort to evaluate and tag them, deciding how and when to sell them and at what price, expending the time, cost, and effort to attract a buyer and close the deal, and entering into business agreements to take the firearms on consignment. These activities demonstrate that he was devoting time, attention, and labor to dealing in firearms as a regular course of trade or business with the predominant intent to earn a profit through the repetitive purchase and resale of firearms.



**HOW DOES ONE GET
A LICENSE
TO BUY AND SELL
FIREARMS?**

QUESTIONS & ANSWERS



Questions and Answers on Federal Firearms Licensing

Q: How do I become licensed?

A: The Application for Federal Firearms License, Form 7/7CR (ATF Form 7) can be found at: <https://www.atf.gov>. In addition to the application itself, an applicant for a federal firearms license must also provide to ATF a photograph, fingerprints, and the license application fee, currently set at \$200 for the initial three-year period. Each three-year renewal application (ATF Form 8) fee is currently set at \$90.

Q: What standards does ATF use to determine whether to give me a dealer's license?

A: Under 18 U.S.C. § 923(d)(1) and 27 CFR 478.47 and 478.104, ATF will approve an application for a federal firearms dealer's license if the applicant:

- Is 21 years of age or older;
- Is not prohibited from shipping, transporting, receiving, or possessing firearms or ammunition;
- Has not willfully violated the GCA or its regulations;
- Has not willfully failed to disclose material information or willfully made false statements concerning material facts in connection with the application;
- Has a premises for conducting business; and
- Certifies that —
 - The business to be conducted under the license is not prohibited by state or local law in the place where the licensed premises is located;
 - Within 30 days after the application is approved, the business will comply with the requirements of state and local law applicable to the conduct of the business;

- Business will not be conducted under the license until the requirements of state and local law applicable to the business have been met;
- The applicant has sent or delivered a completed ATF Form 7 to the chief law enforcement officer where the premises is located, notifying the officer that the applicant intends to apply for a license; and
- Secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees.

Q: What if I do not need to be licensed, but I want to make sure a background check is run on a potential purchaser of my gun?

A: Even if your state does not require a background check for private sales by unlicensed parties, private unlicensed sellers can help ensure that potential purchasers are not prohibited from possessing firearms by using a licensed dealer to facilitate the sale or other transfer of a firearm. For a fee, typically small, many licensed dealers will facilitate a sale of a firearm between two unlicensed individuals. This service provides both customers and the community with assurance that individuals who want to purchase firearms undergo a comprehensive background check, which helps to ensure the buyer is not prohibited from receiving or possessing a firearm and can improve the ability of law enforcement to trace firearms if they are later recovered in connection with a crime. ATF has published *Facilitating Private Sales: A Federal Firearms Licensee Guide*, and *ATF Procedure 2020-2*, that educate licensees on how they can facilitate private sales. A licensee's decision to facilitate private sales is wholly voluntary.

Additional information can be found at <https://www.atf.gov/firearms/docs/guide/facilitating-private-sales-federal-firearms-licensee-guide/download>, and <https://www.atf.gov/rules-and-regulations/docs/ruling/atf-proc-2020-2-%E2%80%93-recordkeeping-and-background-check-procedure/download>.





Q: If I dedicate only a few hours a week to reselling firearms to predominantly earn a profit, am I considered to be engaged in the business as a dealer in firearms?

A: Any person who, as a regular course of trade or business, devotes time, attention, and labor to purchasing and reselling firearms with predominant intent to profit--even if only on a part-time basis--is engaged in the business as a dealer. .

Q: Do federal laws or regulations require that every private resale of a firearm be processed through a licensed dealer?

A: No. While processing a private firearms transaction through a licensed dealer will ensure that a background check is run on the transferee, processing all private resales through a licensed dealer is not required under federal law. People may continue to make intrastate private resales without a license provided they do not rise to the level of being engaged in the business, and the transactions are otherwise compliant with law. Persons should consult their respective state, local, and tribal authorities to determine whether laws at those levels require that they must process firearms transactions through licensed dealers. However, even in a private resale that does not go through a licensed dealer, it is unlawful under federal law to transfer a firearm if the transferor knows or has reasonable cause to believe that the transferee is legally prohibited from possessing or receiving the firearm.

Q: Do federal regulations apply to persons who deal solely in component parts of a weapon?

A: The regulations on engaged in the business as a dealer apply to dealing in “firearms” as that term is defined by 18 U.S.C. § 921(a)(3). This includes weapons that will, are designed to, or may readily be converted to expel a projectile under 18 U.S.C. § 921(a)(3)(A), and the frames or receivers of any such weapons under 18 U.S.C. § 921(a)(3)(B). Persons who engage in the business of dealing in any such firearms under the GCA must be licensed.

Q: Do the BSCA amendments in 2022 and implementing regulatory changes made in 2024 to the definition of “engaged in the business” as a dealer in firearms have any impact on gunsmiths or pawnbrokers?

A: No. Gunsmiths are still covered by the definition of “engaged in the business” as a gunsmith under 27 CFR 478.11, paragraph (4) *Gunsmith*, but they are not impacted by the BSCA’s/regulation’s change to the definition of “engaged in the business” as it applies to other dealers (under paragraph (3) *Dealer in firearms other than a gunsmith or a pawnbroker*). For example, gunsmiths are still assessed as engaged in the business, in part, using the intent element “principal objective of livelihood and profit,” while wholesale and retail dealers are now assessed as engaged in the business using the intent element “predominantly earn a profit.”

The change to the “engaged in the business” definition also does not impact pawnbrokers. The term “engaged in the business” does not apply to pawnbrokers because all pawnbrokers whose business includes taking a firearm as security for repayment of money are automatically dealers and thus required to be licensed without making an assessment as to whether they are engaged in the business

Q: I like to purchase and occasionally resell firearms as a hobby. Do I now need a dealer’s license?

A: Generally, no. The definition of “engaged in the business” as a dealer excludes “persons who make occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby.”

Q: If a person resells their personal firearm and actually makes a profit, does that equate to being engaged in the business as a dealer requiring a license?

A: Whether a person actually makes a profit is not dispositive for determining whether they are engaged in the business for at least two reasons: (1) because a showing of actual profit is not required -- it is the predominant *intent* of obtaining pecuniary gain from selling or disposing of firearms that





matters; and (2) predominant intent to profit is only one element of being engaged in the business of dealing in firearms. If a person has intent to profit from a firearms transaction, that element of being engaged in the business is met, but there must also be facts that demonstrate that they devote time, attention, and labor to dealing as a regular course of trade or business. Moreover, because the person's predominant intent to profit is the relevant fact, it does not matter how actual profit is calculated (*e.g.*, whether expenses or inflation are considered).

Q: Does the location or venue of where I resell impact whether I am considered a dealer?

A: The term “dealer” includes such activities wherever, or through whatever medium, they are conducted, such as at a gun show or event, flea market, auction house, or gun range or club; at home; by mail order; over the Internet (*e.g.*, online broker or auction); through the use of other electronic means (*e.g.*, text messaging service, social media raffle, or website); or at any other domestic or international public or private marketplace or premises. So, there is not a location or venue that would exempt you from being considered a dealer. However, reselling at commercial locations, such as gun shows or auction houses, could indicate that you have predominant intent to earn a profit or intend to engage in commercial or business activities.

Q: Given that firearms transactions can originate from anywhere in the United States, must a dealer have a fixed premises to purchase and resell firearms?

A: Yes. Regardless of where a dealer purchases and resells firearms, or through which medium, in order to obtain a license under the GCA, a dealer must still have a fixed premises in a particular state from which to conduct business (*i.e.*, where they store their firearms inventory, maintain their records, etc.) subject to the license. They must also still comply with all applicable state and local laws regarding the conduct of such business. 18 U.S.C. § 923(d)(1) (E), (F); 27 CFR 478.47(b).

Q: Is there a minimum threshold number of firearms purchased or sold to be considered engaged in the business? If “no,” why not?

A: No. While reselling large numbers of firearms or engaging or offering to engage in frequent transactions may be highly indicative of being engaged in the business of dealing in firearms, there is no set minimum number of firearms purchased or resold that triggers the licensing requirement. In fact, courts have held that even one transaction or attempted transaction can constitute “engaging in the business” where other evidence indicated that the person was engaged in the business of dealing firearms. Similarly, there is no minimum number of transactions that determines whether a person is engaged in the business of dealing in firearms. Instead, the established approach for determining whether an individual is engaged in the business is to look at the totality of circumstances. Thus, even a single firearm transaction, or offer to engage in a transaction, when combined with other evidence (e.g., where a person represents to others a willingness and ability to purchase more firearms for resale), may be sufficient to require a license. In addition, establishing a minimum threshold enables people to try to get around laws established for public safety, like background checks and records through which firearms involved in crime can be traced.

Q: Since federal law and regulations do not set a minimum threshold number of firearms, what criteria do the regulations specify to determine if a person is engaged in the business as a dealer?

A: The criteria specified in Federal regulations to determine if a person is engaged in the business include that they are devoting time, attention, and labor to dealing in firearms, that they are doing so as a regular course of trade or business, and that they have predominant intent to earn profit from the repetitive purchase and resale of firearms. The regulations have established rebuttable presumptions in certain contexts (and these presumptions apply in proceedings as set forth in Section F above) to help unlicensed persons and others determine when a person is presumed to be meeting these criteria and is thus engaged in the business requiring a dealer’s license. There are two sets of rebuttable presumptions for this purpose: one set of conduct that demonstrates when a person is “engaged in the business” as a dealer requiring a license, and another set that independently demonstrates when a person has the intent to “predominantly earn a profit” from sales or other dispositions of firearms.





Q: Due to financial hardship, I resell one or more firearms at fair market value. Am I considered engaged in the business as a dealer in firearms?

A: The statute’s definition of “engaged in the business” as a dealer focuses on a person’s devotion of time, attention, and labor to that business with predominant intent to earn pecuniary gain. As a result, if a person is repetitively purchasing and reselling firearms with a predominant intent to profit, evidence that they are doing so because of financial hardship or disability does not create an exception to whether they are engaged in the business, nor does it alone rebut any of the elements that constitute being engaged in the business.

Q: I intend to profit from the resale of one or more of my firearms. Would I be engaged in the business of dealing in firearms and thus require a license?

A: The intent to profit is only one element of being engaged in the business as a dealer in firearms. A person is not engaged in the business unless other statutory requirements are also present, including the requirements that the person “devote time, attention, and labor to dealing in firearms as a regular course of trade or business” and that the person is engaging, or intends to engage, in “the repetitive purchase and resale of firearms.” 18 U.S.C. § 921(a)(21)(C).

Q: I intend to sell some or all of my personal collection firearms for a profit. Would I be engaged in the business of dealing in firearms and thus require a license?

A: A person would not be engaged in the business of dealing in firearms if the person is only reselling or otherwise transferring firearms occasionally to obtain more valuable, desirable, or useful firearms for the person’s personal collection, or that they are liquidating (without restocking) all or part of their personal collection. However, unlicensed persons repetitively selling firearms cannot merely display a sign or assert in their advertisement that the firearms offered for resale are from a “personal collection” to avoid being engaged in the business of dealing in firearms and being required to obtain a license.

Q: I have firearms that I purchased for personal protection. If I want to resell them so I can update the firearms I maintain for personal protection, would I be engaged in the business of dealing in firearms and thus require a license? What if I make a profit from reselling them?

A: The term “personal collection” does not include firearms purchased primarily for personal protection. This is not to say individuals or companies cannot buy or sell firearms that are primarily for self-defense or protection of others. It just means that those other personal firearms are not necessarily part of a “personal collection,” and persons who buy or sell such firearms cannot make use of the statutory exception for personal collections in 18 U.S.C. 921(a)(21)(C) unless the firearms are of a type and purpose to qualify as personal collection firearms. But nothing in this definition precludes a person from lawfully acquiring firearms for self-protection or other lawful personal use, or making isolated sales of such firearms without devoting time, attention, and labor to dealing in firearms as a regular course of trade or business. As with other firearms, however, if the person regularly or routinely resells personal protection firearms with predominant intent to profit, or engages in any of the activities that support an EIB presumption, they would be presumed to be engaged in the business.

Q: I intend to purchase and resell firearms for a profit. What dollar amount threshold must I reach before my activities rise to the level that I have the intent to predominantly earn a profit and, thus, require a license?

A: There is no statutory requirement that a person actually make a certain amount of money to have predominant intent to profit. Persons who operate a part-time firearms business that earns below a certain dollar amount per year, or even a firearms business that loses money, would still be engaged in the business if they devote time, attention, and labor to dealing with the predominant intent to profit through repetitive purchases and resales of firearms. It is the seller’s motivation and devotion of time, attention, and labor to dealing that determines whether a person needs a license, not the number of sales or amount of profit. However, the fact that a person earns a large amount of profit from repetitively reselling firearms can be evidence that a person had predominant intent to profit from those sales.





Q: I maintain records of firearms purchased, along with the costs of those firearms. Am I therefore presumed to have the intent to predominantly earn a profit?

A: A person who “makes and maintains records to document, track, or calculate profits and losses from firearms repetitively purchased for resale” is presumed to be acquiring firearms to predominantly earn a profit. However, records for firearms purchased, along with the cost of those firearms, may be maintained for other commercial (or noncommercial) purposes; these would not necessarily indicate an intent to predominantly earn a profit.

Q: I intend to list firearms for resale in an online forum such as Facebook Marketplace. Am I presumed to have intent to predominantly earn a profit from the firearms acquired and the few I may resell?

A: *Repetitively or continuously* advertising, marketing or otherwise promoting a firearms business provides a clear basis for presuming that a person has predominant intent to profit from firearms sales. Repetitively or continuously advertising or posting firearms for resale, including through the internet or other digital methods, means the person is presumed to have the intent to predominantly earn a profit. However, if you wish only to dispose of all or part of a personal collection, or occasionally “trade up” to enhance your personal collection by advertising those firearms online, then the presumption would not apply.

Q: Do federal regulations affect auctioneers who conduct “estate-type” auctions and require them to obtain a federal firearms license?

A: Generally, no, provided that the auctioneer does not purchase the firearms or take possession of the firearms for sale on consignment.

Q: Do auctioneers who conduct “consignment-type” auctions need to obtain a dealer’s license?

A: “Consignment-type” auctions differ from “estate-type” auctions because a “consignment-type” auctioneer is paid to accept firearms into a business inventory and then resells them in lots, or over a period of time, and has the legal authority to determine how and when the firearms are sold. In this scenario, the auctioneer generally inventories, evaluates, and tags the firearms for identification. Therefore, consistent with ATF’s longstanding policy, an auctioneer conducting “consignment-type” auctions would generally need to be licensed. See e.g., ATF FFL Newsletter, May 2001, at 3.

Q: I plan to purchase undervalued firearms for profit but will not resell them directly to nonlicensees. I will consign them to a licensee who will then resell them. Do I need a license?

A: That depends on the situation. In general, a person who only occasionally consigns firearms for resale (consignor) may have predominant intent to earn a profit from the sale of the firearms, but they likely do not have to be licensed because they are not devoting time, attention, and labor (such as marketing, finding a buyer, tagging the firearms, maintaining records, conducting background checks, reselling the firearms, etc.). The seller is the person who accepts the firearms on consignment (consignee) and is paid to take the firearms into a business inventory for resale on that the consignor’s behalf. Like consignment-type auctioneers, firearms consignment businesses must be licensed because they are devoting time, attention, and labor to dealing in firearms as a regular course of trade or business to predominantly earn a profit through the repetitive purchase and resale of firearms. But, if a person repeatedly purchases and resells firearms through someone who has a license, with predominant intent to earn a profit, the person could be engaged in the business of dealing in firearms.





**U.S. Department of Justice
Bureau of Alcohol, Tobacco,
Firearms and Explosives**

99 New York Avenue, NE
Washington, DC 20226