



MAY 2001

IMPORTANT EXCISE TAX INFORMATION
FOR ANYONE IMPORTING FIREARMS & AMMUNITION

This document contains information for importers of firearms and ammunition regarding liability for the Federal Firearms and Ammunition Excise Tax on firearms and ammunition (i.e., shells and cartridges).

In addition, this document has specific information for informing one-time or occasional importers about their possible liability for this tax and for importers of antique firearms.

1. BACKGROUND:

- a. The Bureau of Alcohol, Tobacco and Firearms (ATF) collects the firearms and ammunition (i.e., shells and cartridges) excise taxes imposed by the Internal Revenue Code (IRC). Section 4181 of the IRC imposes a tax upon firearms and ammunition when the manufacturer, producer or importer sells or uses the firearms or ammunition. A tax of 10 percent of the sales price is imposed on pistols and revolvers. A tax of 11 percent of the sales price is imposed on other portable weapons (e.g., rifles and shotguns) and ammunition. The excise tax is not imposed again unless the firearms and ammunition are further manufactured. This excise tax was first imposed February 25, 1919.
- b. ATF has received a number of questions from importers about their manufacturers excise tax liability. Importers of firearms or ammunition are usually liable for the excise tax when they sell or use imported firearms or ammunition.

2. DIFFERENCES IN DEFINITIONS:

For the manufacturers excise tax, Title 27, Code of Federal Regulations, Part 53 defines the terms: firearms; shells and cartridges; and importer. There are important differences between these excise tax definitions compared to these same definitions under Title 27, Code of Federal Regulations, Part 178 regulations under the Gun Control Act of 1968 (GCA), as amended, Title 18, United States Code, Chapter 44. The following paragraphs illustrate some of the important differences.

a. Firearms.

- (1) For the manufacturers excise tax, muzzleloading firearms (black powder, matchlock, flintlock, percussion cap, etc.) and firearms manufactured during or before 1898 are considered firearms. However, these firearms are expressly exempted from the GCA definition of "firearm."
- (2) Excise tax is not imposed on the separate sale or use of firearm component parts, including a frame or receiver; however, the sale or use of firearms in a knockdown condition (unassembled but complete as to all component parts) is taxable. However, under the GCA a frame or receiver is a firearm.

b. Ammunition or Shells and Cartridges.

- (1) For the manufacturers excise tax, shells or cartridges are designed, assembled and ready for use without further manufacture for use in a firearm.
- (2) In the regulations, this document and other written materials about excise tax, "shells and cartridges" is used synonymously with ammunition, but it has a different definition under the GCA regulations.

- (3) Component parts of shells or cartridges (for example, projectiles, containers and powder) are not taxable.
- (4) Blank ammunition, which lacks a projectile (for example, bullet or shot), is not taxed when sold or used by an importer.
- (5) Under the GCA definition, component parts and blanks are considered to be ammunition.

c. Importer.

- (1) For the manufacturers excise tax, an importer is any person who brings firearms or ammunition (shells or cartridges) into the United States, or who withdraws such an article from a customs bonded warehouse for sale or use in the United States.
- (2) Under most circumstances, the person who causes and directs the importation will be liable for the excise tax upon sale or use. Consequently, the person who is listed on a government form as an importer may not be the importer for excise tax purposes. For example, a person obtains firearms and then pays a fee to a licensed Federal firearms importer to bring in firearms. In this case, the person (that is, the beneficial owner) is the person who paid the fee to the licensed importer and is responsible for the manufacturers excise tax upon the sale or use of the firearms or ammunition.

3. DETERMINING MANUFACTURERS EXCISE TAX LIABILITY ON FIREARMS OR AMMUNITION IMPORTED INTO THE UNITED STATES:

MANUFACTURER		CONDITION	
PLACE	DATE OF 1 ST SALE ¹ IN UNITED STATES ²	USED	UNUSED and UNDAMAGED
United States ²	2/25/19 and After	Not Taxable	Taxable except for exemptions in Paragraph 6. ³
United States ²	Before 2/25/19	Taxable after first permanent importation on or after 2/25/19 into United States ² , except for exemption in Paragraph 5.	
Foreign	All	Taxable after first permanent importation on or after 2/25/19 into United States ² , except for exemptions in Paragraph 5.	

¹ See Paragraph 4 if the date of the first sale by the manufacturer in the United States is not known.
² United States, herein, means the States and the District of Columbia, but does not include U.S. possessions or territories.
³ Sales of exported firearms or ammunition made in the United States on or after 2/25/19 are presumed to have been sold tax-free for export or directly to a United States military department or that the manufacturer or exporter received a credit or refund of the tax. Therefore, the sale or use of such firearms by an importer will be taxable unless the importer can prove otherwise. See exemptions in Paragraph 6.

4. FIRST DATE OF SALE IN UNITED STATES IS UNKNOWN:

An importer may elect to use the following rule based on the date of manufacture. If manufactured prior to 1919, the first sale of the firearm or ammunition is presumed to occur before February 25, 1919. If manufactured during 1919 or after, the first sale of the firearm or ammunition is presumed to occur on or after February 25, 1919.

5. EXEMPTION FOR FIREARMS OR AMMUNITION OF FOREIGN MANUFACTURE:

The firearms or ammunition will be exempt from tax if the importer can provide sufficient evidence of one of two following events:

- a. The firearm or ammunition was acquired and used for purposes of a stay outside the United States by an individual and will be used by that individual upon return to the United States. (Applies only to an individual, not to an association, limited liability company, partnership or corporation).
- b. The firearm or ammunition of a nonresident is temporarily imported for use in specific event or action (for example, any lawful sporting purpose, official law enforcement or repair).

6. EXEMPTIONS FOR FIREARMS OR AMMUNITION OF DOMESTIC MANUFACTURE:

The firearms or ammunition will be exempt from tax if the importer can provide sufficient evidence that one of the four following events occurred:

- a. The firearm or ammunition was sold by a manufacturer to a U.S. military department during the periods of July 1, 1947 through January 5, 1951, and from July 1, 1951 through December 31, 1954.
- b. The firearm, other than a pistol or revolver, or ammunition was sold on or after February 25, 1919 through December 31, 1955, by a manufacturer and the tax was paid.
- c. The firearm or ammunition was sold on or after January 1, 1956, by a manufacturer on which the tax was paid and the manufacturer or an exporter did not file and receive a refund for the tax.
- d. The firearm or ammunition of a nonresident is temporarily imported for use in specific event or action (for example, any lawful sporting purpose, official law enforcement or repair).

7. EVIDENCE FOR TAX EXEMPTION:

The importer is responsible for gathering evidence to prove that a firearm or ammunition is exempt from the tax. Evidence may include historical information about the manufacture and use of the firearm

or ammunition. If there is a question as to whether a firearm or ammunition is exempt from the tax, the Chief of ATF's National Revenue Center will examine all evidence and decide.

8. NOTIFYING OCCASIONAL AND ONE-TIME IMPORTERS:

- a. Firearms and Explosives Imports Branch personnel will send a notice (See Exhibit #1) to:
 - (1) All firearms or ammunition importers who do not have a Federal firearms license as an importer.
 - (2) Any person identified in Item 9 on ATF Form 6 - Part I for whom an importation is being made.
- b. All ATF personnel may provide this document and exhibits for any inquiry about occasional or one-time imports of firearms or ammunition or as part of our program to educate the public about this excise tax.
- c. If there are unresolved questions about the excise tax, contact the National Revenue Center at 513-684-3817 or 800-398-2282.

9. TAX INFORMATION FOR OCCASIONAL OR ONE-TIME IMPORTERS:

When necessary the following material may be requested and utilized by the occasional or one-time importer:

- a. ATF Form 5300.26, Federal Firearms and Ammunition Excise Tax Return - to be used by occasional or one-time importers to pay the excise tax.
- b. Exhibit #2, Instructions for Occasional or One-Time Importers and accompanying flowchart (Figure 1).

10. FIREARMS EXCISE TAX AND ANTIQUE FIREARMS:

Exhibit #3 is an information sheet which informs persons who bring antique firearms into the United States of their potential excise tax liability. This sheet is limited to discussing the excise tax in these situations.

11. REQUEST FOR ATF TO DETERMINE SALES PRICE:

Exhibit #2 allows individuals to request a sales price determination from ATF. Individuals should contact the National Revenue Center.

12. QUESTIONS:

Any questions about the excise tax or the procedures in this document should be directed to the National Revenue Center in Cincinnati, Ohio at 513-684-3817 or 800-398-2282.

Bureau of Alcohol, Tobacco and Firearms
Firearms and Ammunition Excise Tax Unit
National Revenue Center
8002 Federal Office Building
550 Main Street
Cincinnati, Ohio 45202-3263
Natlrevctr@CINC.ATF.TREAS.GOV

EXHIBIT #1

Notice to Occasional or One-Time Importers Bringing Firearms Or Ammunition Into the United States (U.S.)

The use or sale of firearms (including antique firearms) or ammunition is taxable in certain situations. This tax will probably apply to the sale or use of firearms or ammunition in any business that you conduct. This Federal tax is in addition to any Customs duties.

This tax **does NOT** apply to:

1. Your personal use of a firearm or ammunition which you owned and had in the U.S before.
2. A firearm or ammunition (domestic or foreign) that was sold and used in the U.S. anytime after 1918.
3. A firearm which an individual acquired for use (for example, shooting, hunting or protection) during a stay outside the U.S. AND used during the stay. However, tax will apply if your reason for acquiring the firearm is its ultimate use in the United States.
4. Parts for a firearm or ammunition. However, tax does apply to a complete firearm or to ammunition in knockdown condition (unassembled but complete as to all component parts).
5. A firearm or ammunition of a nonresident that are temporarily imported for use in a specific event or action (for example, any lawful sporting purpose, official law enforcement, or repair).

If a firearm or ammunition are brought into the U.S. that do not meet these conditions, this tax may apply to their use or sale. For additional help, contact the ATF National Revenue Center, 8002 Federal Office Building, 550 Main Street, Cincinnati, OH 45202-3263, telephone 800-398-2282 or 513-684-3817, or e-mail at natlrevctr@CINC.ATF.TREAS.GOV.

EXHIBIT #2

Instructions for Occasional or One-time Importers

1. **GENERAL.** A Federal excise tax is imposed upon the sale or use of firearms or ammunition (shells and cartridges) imported into the United States. The importer owes the tax. This tax applies in the 50 States and the District of Columbia.

2. **WHO IS AN IMPORTER?** Any person who brings in a firearm or ammunition into the United States from a source outside the United States, or who withdraws such firearms or ammunition from a customs bonded warehouse, for sale or use in the United States. A nominal importer may be a customs broker or Federal firearms licensee engaged by the beneficial owner. If the nominal importer of a firearm is not its beneficial owner, the beneficial owner is the importer and owes tax on the sale or use.

3. **WHAT IS A FIREARM?** Any portable weapons, such as rifles, carbines, machine guns, shotguns or fowling pieces, from which a shot, bullet, or other projectile may be discharged by an explosive. This includes pistols, revolvers, and antique or muzzle loading firearms. Pistols and revolvers have a short one-hand stock or butt at an angle to the line of the bore (interior of the gun barrel) and a short barrel or barrels, and which are designed, made and intended to be aimed and fired from one hand.

4. **WHAT ARE SHELLS AND CARTRIDGES (AMMUNITION)?** Any article consisting of a projectile, explosive, and container that is designed, assembled, and ready for use in a firearm without further manufacture.

5. **AM I LIABLE FOR THE EXCISE TAX FOR AN OCCASIONAL OR ONE-TIME IMPORTATION?** Use the questions and answers in Figure 1 of this Exhibit to determine if you will owe the excise tax.

6. **WHAT IS THE RATE OF THE**

EXCISE TAX? A 10% tax rate is imposed on the sales price of pistols and revolvers. An 11% tax rate is imposed on the sales price of other firearms and for ammunition (shells and cartridges).

7. **HOW DO I DETERMINE THE SALES PRICE?** Use one of the following three options.

a. If you will use the firearm for personal use, determine the sales price as an amount equal to the sum of (1) its entry value used in determining Customs duty, (2) the import duty, (3) customs handling fees, (4) freight and delivery charges to the port of entry, (5) and any other costs of importing. Do not include State or local taxes or other expenses incurred after importation. If the entry is duty free because you are a returning member of the U.S. armed forces or because it is below the minimum that Customs sets, use the duty that would otherwise apply.

b. If you will use the firearm or ammunition for personal use, ask ATF to determine the sales price. If you chose this option, send details about the firearm or ammunition (for example, pictures, purchase invoices and other written descriptions and evaluations). Allow several weeks for this determination.

c. If you are not using the firearm or ammunition (shells and cartridges) for personal use, you must use the sale price at which the firearm or ammunition is sold.

8. **HOW DO I PAY THE TAX?** Complete ATF Form 5300.26, Federal Firearms and Ammunition Excise Tax Return. Be sure to indicate in item 4 that you are a one-time or occasional importer. Complete Part I of ATF Form 5300.26. Only complete applicable items on Part II. If you have determined your tax based on option 7a or 7b, then you only need to enter the determined sales price in item

13. Normally, you will not complete Schedules A, B or C.

Complete Part III as required. Be sure to sign and date the tax return.

9. WHO DO I CONTACT FOR MORE HELP? Contact the ATF National Revenue Center, 8002 Federal Office Building, 550 Main St., Cincinnati, OH 45202-3263, telephone 800-398-2282 or 513-684-3817 or send an e-mail to natlrevctr@CINC.ATF.TREAS.GOV.

Figure 1 - Excise Tax Liability for Occasional or One-Time Importation of Firearms and Ammunition

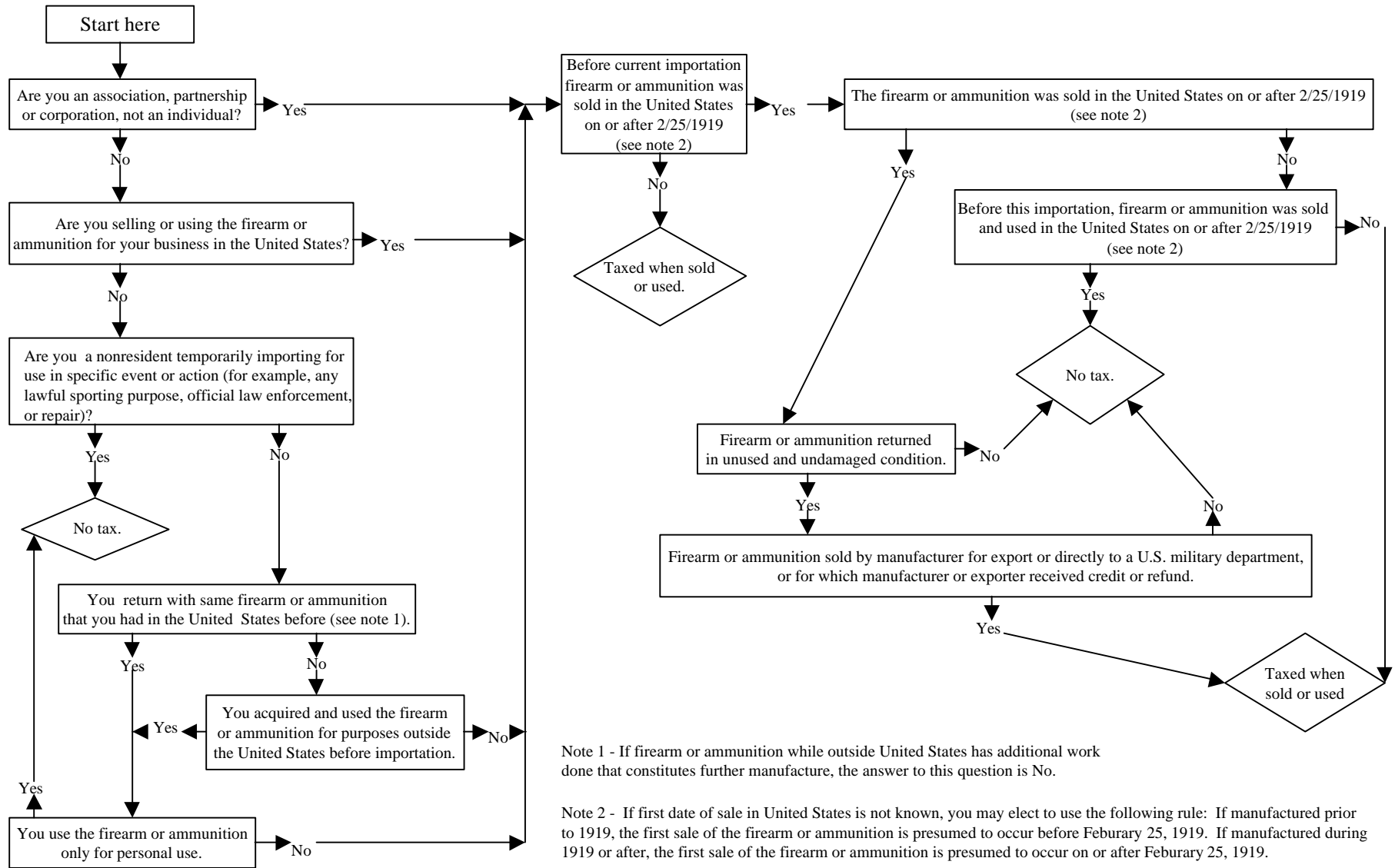


EXHIBIT #3

Firearms Excise Tax and Antique Firearms Information Sheet

WHAT IS THE PURPOSE OF THIS INFORMATION SHEET? This information sheet informs persons who bring antique firearms into the United States and is limited to discussing the Federal firearms excise tax in these situations.

WHO NEEDS TO KNOW THIS INFORMATION?

- Businesses who bring into the United States or auction imported antique firearms.
- One-time or occasional importers of antique firearms.

WHY IS THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS (ATF) INVOLVED? ATF collects the Federal excise taxes imposed by the Internal Revenue Code, 26 U.S.C. 4181. ATF collects a tax on firearms and ammunition. This excise tax is imposed upon the sale or use of firearms by the manufacturer, producer or importer. ATF also collects Federal excise taxes upon the sale or use of ammunition by the manufacturer, producer or importer.

IS THERE A FEDERAL EXCISE TAX IMPOSED ON THE SALE OR USE OF AN ANTIQUE FIREARM BY AN IMPORTER? A firearm may be classified as an antique under the Gun Control Act of 1968 or under other Federal, State or local laws. For the purpose of Federal excise tax imposed under the Internal Revenue Code of 1954, it does not matter whether the firearm is an antique or not. If an antique firearm has all of its component parts (lock, stock and barrel) and can discharge a projectile by the action of an explosive, it is a firearm, and Federal excise tax may apply upon its sale or use by an importer.

WHO IS AN IMPORTER? Any person who brings a firearm into the United States from a source outside of the United States, or who withdraws a firearm from a Customs bonded warehouse for sale or use in the United States is considered an importer and may be liable for excise tax payment. The importer should be the beneficial owner and owes Federal excise tax on the sale or use of the firearm.

For example, a beneficial owner may engage the services of a customs broker, a Federal firearms licensee or an auction house to bring a firearm into the United States. In most cases, a customs broker, a Federal firearms licensee and an auction house act only as agents and are not considered the beneficial owner of the firearm.

IF A PERSON ENGAGES THE SERVICES OF AN AUCTION HOUSE TO BRING IN A FIREARM FOR SALE IN THE UNITED STATES, WHO IS THE IMPORTER?

In general, a person who engages the services of an auction house which only acts as a conduit for the sale of the firearm is the importer. Usually, an auction house does not purchase the firearm. In such a case, an auction house is not normally considered the importer, and consequently, not responsible for the Federal excise tax. If an auction house purchases a firearm, the auction house may be considered the importer. For further information contact the ATF office listed under the HELP paragraph.

WHAT ARE SOME EXAMPLES OF WHEN THE FEDERAL EXCISE TAX MAY APPLY?

- Foreign national sells an antique firearm in the United States, including an estate sale.
- Individual uses an antique firearm that was brought into the United States and acquired for his or her personal collection.
- A business imports and sells or uses an antique firearm in the United States.

IF AN ANTIQUE FIREARM HAS ALREADY BEEN SUBJECT TO THE EXCISE TAX, IS IT TAXED AGAIN?

If the firearm has not been modified from the time of its sale by the manufacturer, producer or importer in the United States, and if the firearm is not being returned to the United States in an unused condition, it is not subject to excise tax. The Federal excise tax on firearms and ammunition began February 25, 1919 on sales or uses of firearms by a manufacturer, producer or importer.

HOW MUCH IS THE FEDERAL EXCISE TAX?

A tax of 10 percent is imposed on the sales price of pistols and revolvers. A tax of 11 percent is imposed on the sales price of other

firearms (for example, rifles and shotguns) and ammunition (shells and cartridges).

HOW DO I FIGURE THIS TAX? In general, the tax is figured by multiplying the percentage (10 or 11 percent) to the adjusted sales price at which the importer sells the firearm. For further information contact the ATF office listed under the HELP paragraph. However, if you are not engaged in any activity in the course of trade or business that would require you to file a tax return, you may figure the tax based on one of the following methods.

- Determine the sales price as an amount equal to the sum of (1) the entry value of the firearm used in determining Customs duty, (2) the import duty, (3) customs handling fees, (4) freight and delivery charges to the port of entry, (5) and any other costs of importing the firearm. Do not include State or local taxes or other expenses after importation. If the entry is duty free (for example, a returning member of the U. S. Armed Forces); use the duty that would otherwise apply.
- Ask ATF to determine the sales price. If this option is chosen, send details about the firearm or ammunition (for example, pictures, purchase invoices and other written descriptions or evaluations). Allow several weeks for the determination.

HOW DO I PAY THE TAX? If you are engaged in any activity in the course of trade or business that would require you to file a tax return (ATF Form 5300.26, Federal Firearms and Ammunition Excise Tax Return), you may be required to file a tax deposit in addition to a tax return. Refer to ATF Form 5300.27, Federal Firearms and Ammunition Excise Tax Deposit for further information on when you must make a deposit.

If you are not engaged in any trade or business that would require you to file ATF Form 5300.26, deposits are not required.

HOW DO YOU COMPLETE A RETURN FOR AN OCCASIONAL OR ONE-TIME SALE OR USE?

- Complete Part I of ATF Form 5300.26.
- Indicate in Item 4 that you are filing a one-time or occasional return.
- Complete the applicable lines in Part II of the return according to whether you have used or sold the firearm.
- Complete Part III of the return. Normally, Schedules A, B or C are not completed for a return for an occasional or one-time importation.
- Sign and date the return.
- File the return in accordance with its instructions.
- Include your payment with the return.

HELP? Contact the Firearms and Ammunition Excise Tax Unit by:

Mail: ATF National Revenue Center
8002 Federal Office Building
550 Main Street
Cincinnati, OH 45202-3263

Telephone: 800-398-2282 (toll-free) or 513-684-3817.

E-mail: natlrevctr@CINC.ATF.TREAS.GOV

You may also contact your local ATF area office listed in your telephone directory.