



INDUSTRY CIRCULAR

DEPARTMENT OF
THE TREASURY

Bureau of Alcohol, Tobacco and Firearms
Washington, D. C. 20226

Number: 93-5 Date: July 13, 1993

Tax-Exempt and Tax-Free Sales of Firearms, Shells and Cartridges

Firearms and Ammunition Excise Taxpayers and Others Concerned:

Purpose. This circular gives general guidance to firearms and ammunition excise taxpayers about making tax-exempt or tax-free sales of firearms, and shells and cartridges (ammunition).

Background. Under certain conditions, a manufacturer or importer may sell firearms and ammunition tax exempt or tax-free. A chart at the end of this Industry Circular highlights some important aspects of tax-exempt and tax-free sales.

Tax-Exempt Sales. Manufacturers and importers may sell firearms or ammunition without the payment of tax (1) when the \$200 or \$5 transfer tax imposed by 26 U.S.C. 5811 on firearms subject to the National Firearms Act (e.g., machineguns and short barreled rifles or shotguns) has been paid on the sale or (2) the firearms or ammunition were purchased with funds appropriated for the Army, Navy, Marines, or Air Force or by the United States Coast Guard. When sales are made to such a Government agency, the manufacturer or importer must sell directly to the agency pursuant to a Government purchase order or contract signed by an authorized official. Manufacturers and importers must maintain a copy of the purchase order or contract to show that the sale was exempt from tax.

Tax-Free Sales. Manufacturers and importers may sell firearms or ammunition without payment of excise tax for specific purposes or uses by the purchaser: (1) use by the purchaser for further manufacture; (2) resale by the purchaser to a second purchaser for use by such second purchaser in further manufacture; (3) for export; (4) resale by the purchaser to a second purchaser for export; (5) use by the purchaser as supplies for vessels or aircraft; (6) a State or local government for the exclusive use of a State or local government; and (7) a nonprofit educational organization for its exclusive use. Generally, tax-free sales may be made only if the manufacturer or importer and purchaser(s) are registered with ATF or the Internal Revenue Service and if the purchaser has executed an exemption certificate.

Other Requirements for Tax-Free Sales. Specific requirements that must be met for tax-free sales are discussed below. Refer to the chart at the end of this Industry Circular for specific information about these requirements.

- (1) Except for sales for export or for further manufacture, the manufacturer or importer must sell directly to the person or entity whose use is tax-free.
- (2) All tax-free sales require that the manufacturer or importer inform the purchaser that the firearms or ammunition are being sold tax-free and that the purchaser is obtaining these articles tax-free for an exempt purpose under an exemption certificate or its equivalent.
- (3) When a manufacturer or importer sells firearms or ammunition tax-free, the exempt purpose or use must precede any other use of the article by the manufacturer, importer, or tax-free purchaser. For example, if a manufacturer or importer uses a firearm for display to solicit sales, then the manufacturer or importer cannot sell the firearm tax-free.
- (4) The purchase for further manufacture by a second purchaser, for export by the manufacturer or by a second purchaser will be tax-free only if the manufacturer or importer receives proof that the article has been resold for use in further manufacture or exported. The proof must be received within 6 months after the manufacturer or importer sells or ships the firearms or ammunition tax-free.
- (5) The manufacturer or importer must have an approved Certificate of Tax-Free Registry (IRS Form 637 or ATF Form 5300.26) to make most types of tax-free sales. The first purchaser and the second purchaser, if any, may also be required to have an approved Certificate of Tax-Free Registry to purchase firearms or ammunition tax-free.
- (6) Manufacturers and importers must maintain records to support all tax-free sales.

Manufacturer or Importer Liable for Tax When Requirements of Tax-Exempt or Tax-Free Sale Are Not Met. In general, the manufacturer or importer will be liable for all taxes, including interest and any applicable penalties, if all the requirements of the tax-exempt or tax-free sale are not met.

Questions. Any questions concerning this circular should refer to its number and can be addressed to any ATF regional office.

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Director

TAX-EXEMPT AND TAX-FREE SALES OF FIREARMS AND AMMUNITION

<u>TYPE OF SALE</u>	<u>REGULATION REFERENCE</u>	<u>MANUFACTURER/IMPORTER MUST SELL DIRECTLY TO QUALIFIED PURCHASER ONLY</u>	<u>MANUFACTURER/IMPORTER NEEDS CERTIFICATE OF TAX-FREE REGISTRY</u>	<u>PURCHASER NEEDS CERTIFICATE OF TAX-FREE REGISTRY</u>	<u>TAX-FREE EXEMPTION EXPIRES IF ADDITIONAL EVIDENCE IS NOT RECEIVED</u>	<u>RECORDS REQUIRED TO BE MAINTAINED SEE 27 CFR</u>	<u>SPECIFIED CERTIFICATE OF EXEMPTION MUST BE USED</u>	<u>OTHER</u>
To Department of Defense or U.S. Coast Guard	53.62(b)	YES	NO	NO	NO	53.62(b)(3)	NO	
NFA Firearm Transfer Tax Paid	53.62(a)	YES	NO	NO	NO	53.62(a)	NO	NFA transfer tax must be paid when sold to purchaser. Transfer tax can be paid even though purchaser eligible to receive NFA firearm without payment of transfer tax
For Further Manufacture By First Purchaser	53.131 & 53.132	YES	YES	YES unless purchaser is U.S.	NO	53.131(c)	NO	
For Further Manufacture By Second Purchaser	53.131 & 53.132	NO	YES	YES (both first and second purchasers) unless purchaser is U.S.	YES within 6 months. See 27 CFR 53.132(c)(1).	53.131(c)	YES if not specified on invoice to second purchaser	
For Export By Manufacturer	53.131 & 53.133	YES	YES	OPTIONAL	YES within 6 months. See 27 CFR 53.133(c).	53.131(c) & 53.133(b) & (d)	NO	Export includes shipments to foreign countries and possessions of U.S.

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For Export By First or Second Purchaser	53.131 & 53.133	NO	YES	YES unless purchaser is U.S. or is located in foreign country or possession of U.S.	YES within six months. See 27 CFR 53.133(c).	53.131(c) & 53.133(b) & (d)	YES. See 27 CFR 53.133(d)(2).
For Use By Purchaser As Supplies for Vessels and Aircraft	53.131 & 53.134	YES	NO	OPTIONAL	NO	53.131(c) & 53.134(d)	YES if any party to sale does not have Certificate of Tax-Free Registry See 27 CFR 53.134(b) for meaning of supplies for vessels or aircraft
To State or Local Government for Their Exclusive Use	53.131 & 53.135	YES	YES	OPTIONAL	NO	53.131(c) & 53.135(c)	YES if purchaser State or local government does not have Certificate of Tax-Free Registry includes all 50 States, District of Columbia and their political subdivisions
To Nonprofit Educational Organization	53.131 & 53.136	YES	YES	YES	NO	53.131(c) & 53.136(c)	See 27 CFR 53.136(b) for meaning of nonprofit educational organization

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Bureau of Alcohol, Tobacco and Firearms
Firearms & Explosives Div. (4560) (Rev. 8/82)
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