



Federal Tax ADVISORY ■

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A Niche Tax: The Firearms Taxes

Federal firearms taxes are some of the small group of excise taxes in the Internal Revenue Code. They tend to only concern gun importers, manufacturers and dealers, but the ranks of dealers are growing. There are actually three taxing regimes, and keeping up with them can be quite confusing.

Manufacturers Excise Tax

The oldest federal firearms tax is the so-called [manufacturers excise tax](#). It only applies to the first U.S. seller, be it a maker or importer. The tricky part about identifying the taxpayer is that sometimes assembling guns can be viewed as manufacturing. The 10% or 11% tax is relatively modest, but penalties, including criminal penalties, can be steep.

The tax is administered by the Alcohol and Tobacco Tax and Trade Bureau (TTB) of the Treasury, not by the IRS. But the IRS used to administer it, which explains about 100 Revenue Rulings on the tax that still exist. They are listed on a [helpful exhibit](#) at the TTB website. That website is generally quite useful and includes the regulations, which can be hard to find. The regulations are not under Title 26 of the Code of Federal Regulations, like tax regulations, but under CFR Title 27.

National Firearms Act Taxes

Taxes originally enacted by the National Firearms Act of 1934 (NFA) also are in Title 26, but also are not administered by the IRS. They are administered by the Alcohol, Tobacco and Firearms Bureau of the Justice Department (ATF). The ATF website is not nearly so useful as the TTB website.

The NFA taxes are of a wider variety, applying to all sorts of transfers of firearms. The primary relief from these taxes is provided by the rather restrictive definition of firearms. Originally, the NFA was aimed at machine guns, sawed-off shotguns and other specialty weapons that could be concealed. It does not apply to standard pistols, revolvers, rifles and shotguns. Most vendors identify which of the firearms they sell are "NFA firearms."

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Gun Control Act of 1968

The 1968 Act created or revamped a firearms licensing system. It applies to dealers and others. It is administered by the Justice Department and imposes fees that at least one court has treated as taxes.

Refunds

If a firearms dealer or manufacturer or importer believes that it has overpaid or been overcharged a firearms tax, it can pursue refunds, but the procedures vary among the three taxes/fees, and foot faults are possible. The agencies' refund mechanisms are not as well developed as those of the IRS and the income tax. The dealer may have to show that the tax was not passed on to customers.

Conclusion

If you are in the firearms business, you probably have already navigated these confusing laws. If you are getting into it, a careful review of the laws will be needed. If you think you paid too much firearms tax, also proceed with caution for your refund.

For additional information, call [Jack Cummings](#) at 919.862.2302.

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