

(4) The applicant's Federal firearms license number (if any);

(5) The applicant's special (occupational) tax stamp (if applicable); and

(6) If the applicant (including, if other than an individual, any responsible person) is an alien admitted under a nonimmigrant visa, applicable documentation demonstrating that the nonimmigrant alien falls within an exception to 18 U.S.C. 922(g)(5)(B) under 18 U.S.C. 922(y)(2), or has obtained a waiver of that provision under 18 U.S.C. 922(y)(3).

(c) *Notification of chief law enforcement officer.* Prior to the submission of the application to the Director, all applicants and responsible persons shall forward a completed copy of Form 1 or a completed copy of Form 5320.23, respectively, to the chief law enforcement officer of the locality in which the applicant or responsible person is located. The chief law enforcement officer is the local chief of police, county sheriff, head of the State police, or State or local district attorney or prosecutor. If the applicant is not a licensed manufacturer, importer, or dealer qualified under this part and is a partnership, company, association, or corporation, for purposes of this section, it is considered located at its principal office or principal place of business; if a trust, for purposes of this section, it is considered located at the primary location at which the firearm will be maintained.

(d) *Approval of Form 1.* If the application is approved, the Director will affix a National Firearms Act stamp to the original application in the space provided therefor and properly cancel the stamp (see § 479.67). The approved application will then be returned to the applicant.

[ATF–41F, 81 FR 2721, Jan. 15, 2016]

**§ 479.63 Identification of applicant.**

(a) If the applicant is an individual, the applicant shall:

(1) Securely attach to each copy of the Form 1, in the space provided on the form, a 2 x 2-inch photograph of the applicant, clearly showing a full front view of the features of the applicant with head bare, with the distance from the top of the head to the point of the chin approximately 1¼ inches, and

which shall have been taken within 1 year prior to the date of the application; and

(2) Attach to the application two properly completed FBI Forms FD–258 (Fingerprint Card). The fingerprints must be clear for accurate classification and should be taken by someone properly equipped to take them.

(b) If the applicant is not a licensed manufacturer, importer, or dealer qualified under this part and is a partnership, company (including a Limited Liability Company (LLC)), association, trust, or corporation, the applicant shall:

(1) Be identified on the Form 1 by the name and exact location of the place of business, including the name and number of the building and street, and the name of the county in which the business is located or, in the case of a trust, the primary location at which the firearm will be maintained. In the case of two or more locations, the address shown shall be the principal place of business (or principal office, in the case of a corporation) or, in the case of a trust, the primary location at which the firearm will be maintained;

(2) Except as provided in paragraph (c) of this section, attach to the application—

(i) Documentation evidencing the existence and validity of the entity, which includes complete and unredacted copies of partnership agreements, articles of incorporation, corporate registration, and declarations of trust, with any trust schedules, attachments, exhibits, and enclosures;

(ii) A completed ATF Form 5320.23 for each responsible person. Form 5320.23 requires certain identifying information, including each responsible person's full name, position, home address, date of birth, and country of citizenship if other than the United States;

(iii) In the space provided on Form 5320.23, a 2 x 2-inch photograph of each responsible person, clearly showing a full front view of the features of the responsible person with head bare, with the distance from the top of the head to the point of the chin approximately 1¼ inches, and which shall have been taken within 1 year prior to the date of the application;

(iv) Two properly completed FBI Forms FD-258 (Fingerprint Card) for each responsible person. The fingerprints must be clear for accurate classification and should be taken by someone properly equipped to take them.

(c) If the applicant entity has had an application approved as a maker or transferee within the preceding 24 months, and there has been no change to the documentation previously provided, the entity may provide a certification that the information has not been changed since the prior approval and shall identify the application for which the documentation had been submitted by form number, serial number, and date approved.

[ATF-41F, 81 FR 2721, Jan. 15, 2016]

#### **§ 479.64 Procedure for approval of application.**

The application to make a firearm, Form 1 (Firearms), must be forwarded directly, in duplicate, by the maker of the firearm to the Director in accordance with the instructions on the form. The Director will consider the application for approval or disapproval. If the application is approved, the Director will return the original thereof to the maker of the firearm and retain the duplicate. Upon receipt of the approved application, the maker is authorized to make the firearm described therein. The maker of the firearm shall not, under any circumstances, make the firearm until the application, satisfactorily executed, has been forwarded to the Director and has been approved and returned by the Director with the National Firearms Act stamp affixed. If the application is disapproved, the original Form 1 (Firearms) and the remittance submitted by the applicant for the purchase of the stamp will be returned to the applicant with the reason for disapproval stated on the form.

[T.D. ATF-270, 53 FR 10509, Mar. 31, 1988]

#### **§ 479.65 Denial of application.**

An application to make a firearm shall not be approved by the Director if the making or possession of the firearm would place the person making the firearm in violation of law.

#### **§ 479.66 Subsequent transfer of firearms.**

Where a firearm which has been made in compliance with 26 U.S.C. 5821, and the regulations contained in this part, is to be transferred subsequently, the transfer provisions of the firearms laws and regulations must be complied with. (See subpart F of this part).

[36 FR 14256, Aug. 3, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55842, Sept. 28, 1979]

#### **§ 479.67 Cancellation of stamp.**

The person affixing to a Form 1 (Firearms) a "National Firearms Act" stamp shall cancel it by writing or stamping thereon, in ink, his initials, and the day, month and year, in such manner as to render it unfit for reuse. The cancellation shall not so deface the stamp as to prevent its denomination and genuineness from being readily determined.

#### **EXCEPTIONS TO TAX ON MAKING FIREARMS**

#### **§ 479.68 Qualified manufacturer.**

A manufacturer qualified under this part to engage in such business may make firearms without payment of the making tax. However, such manufacturer shall report and register each firearm made in the manner prescribed by this part.

[36 FR 14256, Aug. 3, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-271, 53 FR 17551, May 17, 1988]

#### **§ 479.69 Making a firearm for the United States.**

A firearm may be made by, or on behalf of, the United States or any department, independent establishment, or agency thereof without payment of the making tax. However, if a firearm is to be made on behalf of the United States, the maker must file an application, in duplicate, on Form 1 (Firearms) and obtain the approval of the Director in the manner prescribed in § 479.62.

#### **§ 479.70 Certain government entities.**

A firearm may be made without payment of the making tax by, or on behalf of, any State, or possession of the