

GUN TRUST DEPOT

Create a Gun Trust and Own NFA Firearms



ATTORNEY DRAFTED

Years of experience have shaped our lawyer-crafted NFA gun trust document, making it a safe and robust solution for managing your firearms.



GUIDED PROCESS

Our simple and thorough questionnaire will guide you through the process step-by-step. Creating a trust has never been so easy.



GREATER FREEDOM

Keeping your guns in a gun trust provides greater freedom when using, purchasing, and owning NFA and regular firearms.

What is a Gun Trust?

Gun trusts help you by providing a framework to obey gun control regulations, thereby reducing the legal risks of handling restricted firearms. Like any other trust, property in a gun trust is held by one party for the benefit of another. Gun trusts help your loved ones inherit your firearms safely, lawfully, and privately.

Normally, firearms regulated by the National Firearms Act can only be possessed by the person who registered them. Since gun trusts own firearms for the benefit of their beneficiaries, and are managed by its trustees, they allow NFA weapons to be legally operated by multiple individuals.

Firearms regulated by the NFA are interchangeably referred to as Title II, Class 3, and NFA weapons. These types of weapons include suppressors, short-barreled rifles and shotguns, and machine guns (fully-automatic weapons).



LIBERATING

Gun trusts streamline the process of obtaining firearms. No Chief Law Enforcement Office (CLEO) signature required for NFA weapons.



SECURE

Secure assets for your beneficiaries, manage firearm inheritance, and eliminate the need for probate to transfer weapons to your heirs.



FLEXIBLE

Easily add firearms to your trust. Grant access to your weapons by adding trustees at any time. Specify beneficiaries to inherit trust assets.

What are the Benefits of Using a Gun Trust?

Easier Inheritance

Upon the death or incapacitation of the registered owner of a class 3 weapon, the legal heir is required to submit an ATF Form 5 in order to inherit the weapons. Complications can arise if the intended recipient is under age or cannot possess the weapon for some other reason.

Gun trusts can be set up to be multi-generational (Dynasty Trusts). These trusts allow a successor to take over the trust and continue its operation without requiring a transfer of ownership for the weapons.

Easier Management and Use

It is illegal for anyone but the registered owner to use or even be in possession of an NFA firearm. This means that taking a few friends out shooting with your personally owned Class 3 weapons is illegal. However, if the NFA item is owned by a gun trust, any of the trust's co-trustees can legally possess and operate it. Since our gun trust allows you to add and remove trustees at any time, taking your friends shooting with the trust's firearms is never more than a signature away! And since all trustees have equal access to the trust's assets, your friends and family can legally store your class 3 weapons for you as well.

Reduced Risk of Legal Changes

Several groups are attempting to limit the ability to transfer firearms between family members or friends. With an NFA gun trust, any adult who could legally own an NFA weapon could be a co-trustee of the trust. Trustees can be changed at any time, but the gun trust would remain as the registered owner of the firearms, so no transfer of ownership would take place under the NFA.

Why Use a Gun Trust Over a Corporation or LLC?

Corporations and LLCs have several disadvantages compared to trusts. Business entities are:

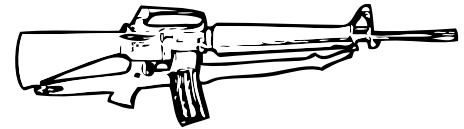
- not private. Information about a business's members is contained in public records.
- subject to annual state fees and entity maintenance costs.
- often required to file sales tax and income tax returns.
- at risk of their members misusing their assets. Each manager of a corporation or LLC can purchase firearms and subject the entire business to the penalties of violating the NFA.
- not equipped to deal with death or incapacitation.
- difficult to modify. The secretary of state must be updated with any changes to the company's management. This can cost money and take a substantial amount of time to complete. To make a change to an NFA gun trust, one simply amends the trust to change who can use, purchase, or possess the firearms without risk of criminal liability for violating the NFA.

What are NFA Firearms?

NFA firearms are restricted firearms and other devices regulated by the National Firearms Act (NFA). These items are only sold by specially licensed FFL dealers with a Class 3 Special Occupational Tax permit, which is why they are also often referred to as Class 3 weapons.

Machine Guns

A “machine gun” is defined by the NFA as “Any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot without manual reloading, by a single function of the trigger.”



Short-barreled Shotguns

A short barreled shotgun (SBS) is defined as a shotgun having a barrel of less than 18 inches, or a weapon made from a shotgun where the resultant weapon has a total length less than 26 inches.



Short-barreled Rifles

A short barreled rifle (SBR) is defined as a rifle having a barrel of less than 16 inches, or a weapon made from a rifle where the resultant weapon has a total length less than 26 inches.



Modern pistols modified with shoulder stocks may be considered short-barreled rifles if they meet the above criteria.

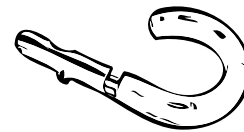
Silencers

A silencer or suppressor is defined as any device for silencing, muffling, or diminishing the report of a portable firearm. This definition has expanded to include any combination of parts intended for use in assembling or manufacturing a silencer.



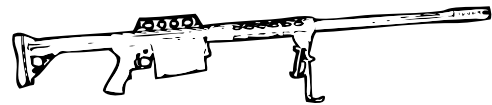
Any Other Weapon

Any other weapon (AOW) is a catch-all category and is defined as “any weapon or device capable of being concealed on a person from which a shot can be discharged through the energy of an explosive”. An AOW can be transferred with a \$5.00 BATFE stamp instead of the normal \$200.00 stamp.



Large Bore Firearms

A large bore firearm is defined as any projectile weapon with a bore diameter greater than half an inch (50 caliber). Exemptions for this definition exist for a variety of weapons including flare launchers with non-weapon rounds, and line-throwing devices.



Explosive Ordnance

An explosive ordnance is defined as any explosive, incendiary, or poison gas, including bombs, grenades, rockets, missiles, mines and similar devices. This definition has expanded to include parts intended for making such a device.



While explosive ordnances and large bore firearms are classified as NFA firearms, no state allows for their ownership with or without a gun trust.

What is the NFA?

The National Firearms Act, or NFA, governs the purchase, transfer, and creation of certain types of weapons. These weapons are interchangeably referred to as Class 3, Title II, and NFA firearms. “Class 3” refers to the Special Occupational Tax (SOT) stamp that is required for weapons dealers to sell such items. “Title II” is another term used to refer to the NFA itself; the Gun Control Act is “Title 1” of Federal firearms laws, and the NFA is “Title II”.

Restricted Firearms

Items regulated by the act broadly fall into the following categories: machine guns, short-barreled rifles, short-barreled shotguns, suppressors, and destructive devices.

Purpose

While the NFA imposes a tax on certain types of weapons, its purpose was not to create a source of revenue. Instead, it was created to discourage the creation and transfer of NFA weapons due to their prevalent use in gangland crimes. To achieve this, the act required for the registration of all NFA weapons, as well as instantiated a \$200 tax on the creation or transfer of NFA weapons. This tax was prohibitively expensive at the time of the act’s creation.

History

Enacted in 1934, the NFA obligated all transferrers, creators, and owners of NFA firearms to register their weapons with the Secretary of Treasury. Due to this requirement, it was necessary for a holder of an unregistered NFA weapon to register it, thereby alerting state authorities to its existence. If the registered weapon violated state laws, the owner could be prosecuted for possessing the weapon.

This was found to be unlawful by the 1968 court case *Haynes v. United States*. The fifth amendment protects individuals from self incrimination, and the NFA of 1934 violated that protection. This led to a revision (known as Title II of the Gun Control Act) of the NFA in 1968, which no longer required individuals to register their unregistered NFA firearms. It also prohibited the use of information gained from such a registration in a criminal proceeding. Additionally, the revision expanded the definition of machine guns, and added definitions for destructive devices.

In 1986, the Firearm Owner’s Protection Act expanded the NFA’s definition of “silencer” by making it include any components that could be used, and are intended to be used, as a silencer. It also prohibited the transfer or possession of machine guns, with exceptions for government agencies or firearms lawfully owned before May 19, 1986.

Gun Trusts Explained

What are the Trustees' Roles?

Trustees are people who can act on behalf of an NFA gun trust. They may possess and operate the trust's firearms, manage the trust's assets, as well as appoint or remove trustees. A trustee must be eighteen years of age to possess items regulated by the National Firearms Act.

What are the Beneficiaries' Roles?

Beneficiaries are people who will ultimately receive ownership of the trust's assets.

What is the Successor's Role?

The trust's successor replaces the original trustor upon his death or incapacitation, and is responsible for transferring ownership of the trust's assets to the beneficiaries.

Who can I assign to be a beneficiary of my trust?

Anyone, including minors, may be a beneficiary of the trust. In the case that a minor is a beneficiary, the trust is designed to hold and manage the assets until the beneficiary reaches the required age.

What is the process of transferring an NFA weapon into my trust?

- Fill out Form 4.
- Create a complete copy of your gun trust.
- Complete two FD-258 fingerprint cards for each responsible person.
- Obtain 2X2-inch photograph taken within the last year for each responsible person.
- Fill out a Form 5320.23 for each responsible person.
- Create a check or money order (payable to "Bureau of Alcohol, Tobacco, Firearms, and Explosives") for \$200.00.
- Place all of the above items into an envelope and send them to the following address:

National Firearms Act Branch

Bureau of Alcohol, Tobacco, Firearms and Explosives

P.O. Box 5015

Portland, OR 97208-5015

Remember that the trust must first be signed and notarized before being submitted. Also, be sure to submit copies of all pages of the trust paperwork (the main trust document) including Schedule "B" and other trust amendments you have made, if any.

- Finally, have each responsible person submit a copy of their Form 5320.23 to their CLEO.

BATFE Forms Explained

What is Form 1?

Form 1 is an application to make and register a firearm. This form is commonly used to modify an existing firearm into an NFA firearm. Examples of this include creating a short-barreled shotgun, or attaching a stock to a pistol thereby turning it into a short-barreled rifle.

What is Form 4?

Submitting this form is the most common way to gain possession of an NFA item. Form 4 is an application for a tax paid transfer and registration of a firearm. This allows an NFA weapon to be transferred from one entity to another. For example, this form would be used when purchasing an NFA item from a licensed dealer.

What is Form 5?

Form 5 is very similar to form 4, but it exempts the user from the transfer tax. This form is used in special circumstances, and is common when transferring a weapon to an heir.

What is Form 20?

Form 20 is an application to transport firearms from one state to another. This form is used for a permanent change of address or for weapons which will be temporarily relocated to another state. Generally, moving from one state to another will not require any changes to the trust document. However, the weapons must be legal according to the destination state's laws. Note that Maine does not allow trusts created in another state to purchase firearms.

5 Common Mistakes When Setting Up a Gun Trust

1. Failing to Appoint Necessary Individuals as Trustees

One of the benefits of using a gun trust is that it can protect your loved ones from issues of constructive possession. Without a trust, legal possession is granted only to the individual that registered the firearms. If, for instance, a spouse had easy access to an NFA weapon, they could technically be guilty of constructively possessing the firearm. For this reason, it is important to add all individuals who have access to your weapons as trustees of your trust.

2. Appointing a Prohibited Person as a Trustee

The trustor and all trustees must be able to legally own all of the trust's assets. Prohibited persons are unable to own NFA weapons. Prohibited persons include any person:

- Under indictment or information in any court for a crime punishable by imprisonment for a term exceeding one year;
- convicted of a crime punishable by imprisonment for a term exceeding one year;
- who is a fugitive from justice;
- who is an unlawful user of or addicted to any controlled substance;
- who has been adjudicated as a mental defective or has been committed to any mental institution;
- who is an illegal alien;
- who has been discharged from the military under dishonorable conditions;
- who has renounced his or her United States citizenship;
- who is subject to a court order restraining the person from harassing, stalking, or threatening an intimate partner or child of the intimate partner;
- or who has been convicted of a misdemeanor crime of domestic violence (enacted by the Omnibus Consolidated Appropriations Act of 1997, Pub. L. No. 104-208, effective September 30, 1996). 18 USC 922(g) and (n).

3. Failing to Transfer Necessary Firearms to the Trust

All of a trust's assets must be legally transferred to it. A common mistake is to create a gun trust, but fail to transfer all of the desired weapons to the trust. Only items owned by the trust are able to be legally used by its trustees. Some individuals make the mistake of assuming a weapon has been legally transferred to the trust and use it as though it were.

4. Adding Trustees Who are Unable to Attend the Notarization

A trust does not come into existence before it is notarized. While some states do not require all of the trust's trustees to be present for its notarization, some do. For this reason, initially including trustees who are unable to attend could halt the notarization process.

5. Setting Up a Trust With the Intention of Owning an Illegal Weapon

While gun trusts allow their users to own NFA weapons more easily, not all NFA weapons are legal in every state. For example, suppressors are NFA weapons which are often held in trusts. However, they are illegal in California, New York, New Jersey, and several other states. Before setting up your trust, it is important to understand the legality of the items you intend for it to possess.

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www.GunTrustDepot.com

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