FAQs to Accompany the OPEN LETTER REGARDING THE NATIONAL FIREARMS ACT MAKING AND TRANSFER FOR CERTAIN FIREARMS AND DEVICES (October 9, 2026)

Background Information about the Court Decision

1. **What did the district court enjoin?**

   The district court enjoined the government from enforcing the making, registration, and transfer tax provisions of the National Firearms Act, ***as applied to short-barreled rifles, short-barreled shotguns, silencers, and "any other weapons" (concealable firearms other than pistols and revolvers)***. In this case, the injunction applies only to the plaintiffs and, where applicable, their agencies, political subdivisions, members, and current and future customers. The plaintiffs include certain organizations and their members, states, individuals, and businesses.

2. **Why did the district court enjoin these provisions?**

   The district court held that the making, registration, and transfer provisions of the NFA were no longer valid exercises of Congress's taxing power with respect to the aforementioned items because Congress reduced the transfer and making tax to $0 in the One Big Beautiful Bill Act. The district court also held that Congress did not rely on its constitutional commerce power when it enacted the NFA.

3. **Did the district court enjoin all NFA provisions as applied to short-barreled rifles, short-barreled shotguns, silencers, and any other weapons?**

   No. The National Firearms Act makes it unlawful to "receive or possess a firearm which has been imported or brought into the United States" in violation of the NFA. 26 U.S.C. § 5861(k). This provision was not challenged, and the district court did not explicitly enjoin it. *Silencer Shop Found. v. ATF*, No. 6:25-cv-056, 2026 WL 2255460, at *21 (N.D. Tex. Aug. 5, 2026).

   The National Firearms Act also makes it unlawful for any person "to transport, deliver, or receive any firearm in interstate commerce which has not been registered as required" by the NFA. 26 U.S.C. § 5861(j). One part of the district court's opinion recites that this provision was not challenged by the plaintiffs. A different part of the district court's opinion suggests that the NFA registration provisions are unconstitutional as applied to intrastate and interstate activities. *Id.* at *14 n.13. The Department recognizes that application of § 5861(j) would make

it difficult to sell or transport unregistered $0-tax NFA items for purposes within the scope of the injunction (e.g., shipping between dealers or sending an item to a manufacturer for repair). Nor could individuals transport unregistered $0-tax NFA items for lawful purposes, such as target shooting in another state or moving to an out-of-state residence. Consequently, for these and other policy reasons, the Department will not enforce § 5861(j), consistent with the Attorney General's statement on October 9, 2026.

The district court also did not enjoin the special (occupational) taxes applied to those engaged in the business of manufacturing, importing, or selling any NFA items. Federal firearms licensees, thus, may not engage in any business involving these firearms or silencers without paying these taxes in violation of 26 U.S.C. § 5861(a).

4. Does the district court injunction apply to non-parties?

The district court's injunction only benefits the plaintiffs in the litigation and the other persons specified in the district court's order. Other individuals and entities are not covered.

As a matter of enforcement discretion, the Department will not enforce the NFA against any person as applied to the domestic manufacturing, possession, and transfer of short-barreled rifles, short-barreled shotguns, silencers, and "any other weapons" (concealable firearms other than pistols and revolvers).

5. I am covered by the injunction. Will I have an opportunity to register $0-tax NFA items?

As noted below, ATF will continue to accept NFA registrations voluntarily.

6. Will individuals covered by the injunction who possess unregistered $0-tax NFA items be subject to prosecution under state and local law?

Check with state and local authorities. Most states require that individuals who possess NFA items comply with federal law or register them under the National Firearms Act. ATF cannot opine on whether holding an unregistered firearm or silencer pursuant to a federal district court injunction will qualify for state-law purposes as lawfully held (or registered) under federal law.

Some states have no state-level provisions restricting some or all NFA items. For example, many states do not impose state-level controls on silencers.

A minority of states prohibit the possession of most or all NFA items under state law. The injunction does not affect these state laws.

Under the Gun Control Act (GCA), federal firearms licensees (FFLs) may not sell or deliver NFA items in violation of state or local law. 18 U.S.C. § 922(b)(2).

7. Does the district court's order bind other courts?

No. U.S. District Court orders generally have no binding effect on other federal courts or on state courts. Other courts could reach different conclusions about

whether the NFA is a valid exercise of Congress's taxing power or interstate commerce power.

ATF Response to the District Court Ruling for Non-Parties

8. What about persons not covered by the injunction? Will ATF apply this ruling nationally?

Yes. For various policy reasons, ATF will cease enforcement on October 9, 2026, of the following NFA provisions as applied only to short-barreled rifles, short-barreled shotguns, silencers, and "any other weapon[s]" as defined in 26 U.S.C. § 5845(e):

- The requirement to apply and obtain prior approval to make NFA firearms
- The requirement of those engaged in the business to register NFA firearms within 24 hours of making
- The requirement to apply and obtain prior approval to transfer NFA firearms
- The requirement to register a firearm in the National Firearms Registration and Transfer Record.
- The various prohibitions on making, receiving, transferring, and possessing unregistered NFA firearms, other than the prohibitions in 26 U.S.C. § 5861(h), (k) (prohibiting possession of firearms with obliterated serial numbers or those illegally imported)
- The prohibition against transporting unregistered NFA firearms in interstate commerce (26 U.S.C. § 5861(j))
- The NFA requirement to mark all NFA firearms
- Any other NFA provision specifically enjoined by the district court's judgment

This nonenforcement only extends to firearms on which Congress eliminated the making and transfer taxes. Among other policy reasons, this nonenforcement policy is designed to eliminate the inequity and disuniformity created by the district court's injunction, which is limited only to certain parties.

Machineguns and destructive devices remain taxable items and subject to all NFA provisions. Those "engaged in the business" must also continue to pay special (occupational) taxes.

9. Does this mean that short-barreled rifles, short-barreled shotguns, silencers, and any other weapons are now unregulated?

These items remain statutory "firearms" under the GCA, and all GCA requirements still apply. Licensees must fill out an ATF Form 4473 and perform a National Instant Criminal Background Check System (NICS) check before making the transfer. Licensees must also keep records of their transactions. No one may sell or deliver any such item to a person that he knows or has reasonable cause to believe is prohibited by law from possessing a firearm.

There are some additional GCA requirements described below in the industry section. These include special provisions governing short-barreled rifles and shotguns.

Except for some enforcement discretion related to 18 U.S.C. § 922(b)(4), individuals remain bound by all GCA requirements. This is not an exclusive list of GCA requirements.

10. Will ATF permit individuals to file registration forms voluntarily?

Yes. ATF will continue to maintain the National Firearms Registration and Transfer Record and approve all NFA forms for those who voluntarily wish to submit them.

11. Will individuals who possess unregistered NFA items under ATF's discretion not to enforce the NFA be subject to prosecution under state and local law?

Check with state and local authorities. Most states require that individuals who possess NFA items comply with federal law or register them under the National Firearms Act. ATF cannot opine on whether holding an unregistered firearm or silencer pursuant to ATF's enforcement discretion will qualify for state-law purposes as lawfully held (or registered) under federal law.

Some states have no state-level provisions restricting some or all NFA items. For example, many states do not impose state-level controls on silencers.

A minority of states prohibit the possession of most or all NFA items under state law. ATF's exercise of enforcement discretion does not affect these state laws.

Under the Gun Control Act (GCA), federal firearms licensees (FFLs) may not sell or deliver NFA items in violation of state or local law. 18 U.S.C. § 922(b)(2).

Industry Guidance

12. How do FFLs process transactions of silencers and any other weapons?

FFLs should process transactions involving these items as they would any other statutory "firearms" under the GCA. FFLs must keep records of transactions. Before transferring such items to an unlicensed person, FFLs must obtain a Form 4473 and, unless otherwise exempt, perform a NICS background check. With limited exceptions, FFLs may only sell or dispose of these items only to residents of the states in which they are licensed to do business. FFLs also may not sell or transfer any item in violation of state or local law. All other GCA restrictions still apply.

13. Does an FFL need ATF approval to sell silencers or any other weapons to another FFL in an interstate transaction?

No. Traditionally, ATF would have approved transactions between SOT (Special (Occupational) Taxpayer) FFLs on a Form 3. ATF will not require such forms. Form 3s may be submitted voluntarily.

14. May a non-SOT FFL engage in the business of selling short-barreled rifles, short-barreled shotguns, silencers, or any other weapons?

Those who are engaged in the business of manufacturing NFA items have additional requirements that the district court did not enjoin. Although Congress eliminated the making and transfer taxes for most NFA firearms, Congress did not eliminate the taxes for those engaged in the business of manufacturing, importing, or dealing in these firearms. 26 U.S.C. § 5801. Thus, those engaged in the business of manufacturing, importing, or dealing must pay special (occupational) taxes for each business activity that they conduct.

FFLs who manufacture NFA firearms for customers have some other obligations as well. They must ensure that they have the appropriate manufacturing license under the GCA. They must serialize all firearms and silencers. Businesses manufacturing silencers before November 20, 2026, will also have to register with the Department of State under the International Traffic in Arms Regulations.

15. How should an FFL transfer short-barreled rifles and short-barreled shotguns?

The GCA prohibits an FFL from selling or delivering a short-barreled rifle or short-barreled shotgun, except as specifically authorized by the Attorney General. 18 U.S.C. 922(b)(4). Traditionally, the NFA approval process satisfied this requirement. Although the district court enjoined the NFA approval process, it did not enjoin the GCA authorization requirement.

At this time, no regulatory mechanism exists to authorize FFLs to transfer short-barreled rifles or short-barreled shotguns outside the NFA process. ATF understands the burden this will create, and ATF is creating forms and drafting regulations as quickly as possible to implement a non-NFA approval process. To deal with the disruption that gap will create in the interim, ATF will exercise its enforcement discretion and not enforce 18 U.S.C. § 922(b)(4) until such regulations exist.

The GCA transfer approval requirement does not apply to transfers to state entities because of a GCA exception for government entities. 18 U.S.C. § 925(a). Consequently, apart from any enforcement-discretion determination, federal law permits FFLs to continue transferring short-barreled rifles and short-barreled shotguns to state and local governments for official use.

16. What should I do if I am unsure whether transferring unregistered NFA items will be deemed lawful under state or local law?

FFLs unsure whether unregistered NFA items are lawful under state or local law (including state or local law applicable to the buyer's jurisdiction) should seek legal advice and should also check with the relevant law enforcement and prosecutorial authorities. The Gun Control Act continues to prohibit transferring statutory firearms (including silencers) in violation of state and local law. 18 U.S.C. § 922(b)(2). FFLs willfully transferring firearms in violation of state and local law face federal criminal penalties and license revocation. Neither the

district court's injunction nor ATF's enforcement discretion relieve FFLs of their obligation to comply with state and local law.

17. I am a manufacturer of silencers. I received an unregistered silencer for repair. May I ship it back in interstate commerce?

As a matter of enforcement discretion, ATF is not enforcing 26 U.S.C. § 5861(j) against unregistered NFA items.

18. My business transferred an NFA item on a Form 4473. How can I remove it from my NFA inventory?

To remove an item, please write the NFA Division at NFAFAX@atf.gov.

Unlicensed Individuals

19. Do unlicensed individuals need ATF approval to manufacture or transfer a short-barreled rifle, short-barreled shotgun, silencer, or any other weapon?

No, because of ATF's decision to exercise enforcement discretion, unlicensed individuals no longer need to file a Form 1 and receive ATF approval before making or transferring such items. Unlicensed individuals may voluntarily file Form 1s, if they wish to register their firearms or devices in the National Firearms Registration and Transfer Record.

GCA requirements continue to apply, however. For example, unlicensed individuals may not engage in the business of manufacturing or transferring these weapons. Unlicensed individuals may not transfer NFA items to residents of other states or to persons prohibited by law from possessing firearms.

20. May a person who is not covered by the injunction transport an unregistered silencer or any other weapon in interstate commerce?

As a matter of enforcement discretion, ATF will not enforce § 5861(j) as applied to unregistered NFA items, including for those not subject to the injunction.

21. May a person transport a short-barreled rifle or short-barreled shotgun in interstate commerce?

Yes, but individuals must continue to file a Form 20 before engaging in interstate transportation of a short-barreled rifle or short-barreled shotgun, even if it is unregistered. 18 U.S.C. § 922(a)(4).

22. I had started an NFA application, but I no longer wish to register my firearm or silencer (or I wish to unregister a previously registered NFA item). What do I do?

To remove an item, please write the NFA Division at NFAFAX@atf.gov. Please note that once an item is removed, it cannot be re-registered unless the Attorney General declares an amnesty.

Future Risk

23. What are the legal risks of making, possessing, or transferring $0-tax firearms?

Material changes in legal or factual circumstances could cause NFA enforcement to resume. For example, Congress could impose a new tax on NFA firearms, the district court's injunction could be dissolved or overturned, or the Department could rescind the enforcement guidelines.

The NFA treats unregistered firearms as contraband. Individuals who make, possess, transfer, or receive unregistered NFA firearms are subject to felony penalties and forfeitures. 26 U.S.C. §§ 5861, 5871, 5872; 49 U.S.C. §§ 80302, 80303.

24. If I hold an unregistered $0-tax firearm pursuant to the injunction or the enforcement discretion policy, will I be grandfathered if the legal circumstances change? Will I have an opportunity to register my firearms?

Federal law does not generally permit subsequent registration of unregistered NFA items nor are there provisions that would automatically grandfather unregistered NFA firearms.

There are narrow exceptions that exist at the Attorney General's discretion. The NFA permits the Attorney General to hold an amnesty for up to 90 days to facilitate registration of unregistered items. The Internal Revenue Code also has provisions authorizing certain forbearances of taxing provisions. The Attorney General is not required, however, to hold an amnesty or to provide forbearance. That decision would be made by the Attorney General at the time the injunction is dissolved.