US Treasury Department

# Industry Circular

**Internal Revenue Service**
Alcohol and Tobacco Tax Division
Washington, D.C. 20224

Industry Circular No. 68-28

IMPORTATION OF FIREARMS, AMMUNITION
AND IMPLEMENTS OF WAR

October 23, 1968

Importers of Firearms, Ammunition and
Implements of War

Purpose. The purpose of this industry circular is to call your attention to the enactment on October 22, 1968, of Title I (State Firearms Control Assistance) of the Gun Control Act of 1968 (Public Law 90-618); and the transfer of the administration of the present arms import control program authorized by Section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934), from the Secretary of State to the Secretary of the Treasury.

Effective Date. Most provisions of Title I will not go into effect until December 16, 1968. However, the restriction on imports of firearms and ammunition contained in Section 925(d) of Title I takes effect immediately.

Interim Importation Procedure. For your information and guidance, attached is a copy of the Interim Firearms and Ammunition Importation Procedures which will be published in the Federal Register to implement the provisions of Section 925(d) of Title I of the Gun Control Act of 1968, until December 15, 1968. Prior to that date, regulations will be published in the Federal Register to implement the Act on and after December 16, 1968.

Executive Order. Pursuant to Executive Order No. 11432 the functions related to administering the importation of articles on the United States Munitions List were transferred from the Secretary of State to the Secretary of the Treasury. Therefore, applications to import articles on the Munitions List will no longer be filed with the Office of Munitions Control. Instead, such applications and related inquiries should be submitted to this office addressed to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, 1111 Constitution Avenue, N. W., Washington, D. C., zip code 20224, ATTENTION: CP:AT:EO.

Application Forms Source. Copies of Form DSP-38 will be furnished you upon request by this office or by the office of the Assistant Regional Commissioner, Alcohol and Tobacco Tax, nearest you. The address of the Assistant Regional Commissioners are listed as follows:

Assistant Regional Commissioner (A&TT)
Internal Revenue Service
6512D Federal Office Building
550 Main Street
Cincinnati, Ohio 45202

Assistant Regional Commissioner (A&TT)
Internal Revenue Service
Room 374, Third Floor
2 Penn Center Plaza
Philadelphia, Pennsylvania 19102

Assistant Regional Commissioner (A&TT)
Internal Revenue Service
35 E. Wacker Drive
Chicago, Illinois 60601

Assistant Regional Commissioner (A&TT)
Internal Revenue Service
90 Church Street
New York, New York 10007

Assistant Regional Commissioner (A&TT)
Internal Revenue Service
P. O. Box 926
Federal Office Building
275 Peachtree Street, N. E.
Atlanta, Georgia 30303

Assistant Regional Commissioner (A&TT)
Internal Revenue Service
Room 708
1114 Commerce Street
Dallas, Texas 75202

Assistant Regional Commissioner (A&TT)
Internal Revenue Service
Flood Building
870 Market Street
San Francisco, California 94102

Harold A. Serr

Harold A. Serr
Director, Alcohol and Tobacco Tax Division

Attachment

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
Interim Firearms and Ammunition
Importation Procedures

Section 1. Purpose.

On October 22, 1968, the President signed into law the Gun Control Act of 1968 (Public Law 90-618, 82 Stat. 1213). Section 105(b) of Title I of the Act (State Firearms Control Assistance) provides that sections 921, 922(1), 925(a)(1), and 925(d) of Chapter 44 of Title 18, United States Code, as amended by section 102 of Title I of the Act, shall take effect on the date of enactment. In addition, on October 22, 1968, the President issued Executive Order No. 11432 transferring the administration of the arms import control program authorized by section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934) from the Secretary of State to the Secretary of the Treasury. Accordingly, pending the issuance of regulations to be codified in Title 26 of the Code of Federal Regulations, the following are interim procedures for the importation and bringing into the United States of firearms and ammunition.

Sec. 2. Statutory provisions.

The statutory sections referred to in section 1, as pertinent to these procedures, are as follows:

"§921. Definitions.

"(a) As used in this chapter--

"(1) The term 'person' and the term 'whoever' include any individual, corporation, company, association, firm, partnership, society, or joint stock company.

"(2) The term 'interstate or foreign commerce' includes commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia, but such term does not include commerce between places within the same State but through any place outside of that State. The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).

"(3) The term 'firearm' means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.

"(4) The term 'destructive device' means --

"(A) any explosive, incendiary, or poison gas --

"(i) bomb,

"(ii) grenade,

"(iii) rocket having a propellant charge of more than four ounces,

"(iv) missile having an explosive or incendiary charge of more than one-quarter ounce,

"(v) mine, or

"(vi) device similar to any of the devices described in the preceding clauses;

"(B) any type of weapon (other than a shotgun or a shotgun shell which the Secretary finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and

"(C) any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraph (A) or (B) and from which a destructive device may be readily assembled.

The term 'destructive device' shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(a), 4685, or 4686 of title 10; or any other device which the Secretary of the Treasury finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting purposes.

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"(16) The term 'antique firearm' means --

"(A) any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; and

"(B) any replica of any firearm described in subparagraph (A) if such replica --

"(i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or

"(ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

"(17) The term 'ammunition' means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.

"(18) The term 'Secretary' or 'Secretary of the Treasury' means the Secretary of the Treasury or his delegate.

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"(b) For the purposes of this chapter, a member of the Armed Forces on active duty is a resident of the State in which his permanent duty station is located.

"§922. Unlawful acts.

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"(1) Except as provided in section 925(d) of this chapter, it shall be unlawful for any person knowingly to import or bring into the United States or any possession thereof any firearm or ammunition; and it shall be unlawful for any person knowingly to receive any firearm or ammunition which has been imported or brought into the United States or any possession thereof in violation of the provisions of this chapter.

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"§925. Exceptions: Relief from disabilities.

"(a)(1) The provisions of this chapter shall not apply with respect to the transportation, shipment, receipt, or importation of any firearm or ammunition imported for, sold or shipped to, or issued for the use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof.

* * * * * *

"(d) The Secretary may authorize a firearm or ammunition to be imported or brought into the United States or any possession thereof if the person importing or bringing in the firearm or ammunition establishes to the satisfaction of the Secretary that the firearm or ammunition --

"(1) is being imported or brought in for scientific or research purposes, or is for use in connection with competition or training pursuant to chapter 401 of title 10;

"(2) is an unserviceable firearm, other than a machinegun as defined in section 5845(b) of the Internal Revenue Code of 1954 (not readily restorable to firing condition), imported or brought in as a curio or museum piece;

"(3) is of a type that does not fall within the definition of a firearm as defined in section 5845(a) of the Internal Revenue Code of 1954 and is generally recognized as particularly suitable for or readily adaptable to sporting purposes, excluding surplus military firearms; or

"(4) was previously taken out of the United States or a possession by the person who is bringing in the firearm or ammunition.

The Secretary may permit the conditional importation or bringing in of a firearm or ammunition for examination and testing in connection with the making

of a determination as to whether the importation or bringing in of such firearm or ammunition will be allowed under this subsection."

Sec. 3. Permit to import.

(a) An application for the authorization (a permit) required by §925(d) to import or bring a firearm or ammunition into the United States shall be filed, in triplicate, with the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, 1111 Constitution Avenue, N. W., Washington, D. C. 20224 (hereinafter referred to as the Director). Form DSP-38 (Application for License to Import Arms, Ammunition, and Implements of War) shall be used as the application for the importation of firearms or ammunition. The application shall include the following:

(1) The name, address, date of birth (if an individual), Federal Firearms Act license number (if any), and Department of State registration number (if any), of the applicant;

(2) a description of the firearm or ammunition to be imported, including type (e.g. rifle, shotgun, pistol, revolver), model, caliber, size (if ammunition), or gauge, barrel length (if a firearm), country of manufacture, and the name of the manufacturer;

(3) the approximate net value;

(4) the country from which to be imported;

(5) the name, address and nationality of the foreign seller and the foreign consignor; and

(6) all other information required by Form DSP-38.

(b) There shall be attached to the application a statement executed under the penalties of perjury setting forth:

(1) The intended use of the firearm or ammunition if it is being imported or brought in for scientific or research purposes; or

(2) the intended use of the firearm or ammunition if it is being imported or brought in for use in connection with competition or training pursuant to Chapter 401 of Title 10 of the United States Code; or

(3) why the firearm or ammunition is a curio or museum piece if it is being imported or brought in as a curio or museum piece, and if a firearm, the manner in which, and a description of how, the firearm has been rendered unserviceable; or

(4) the reason[s] why the applicant believes the firearm or ammunition is generally recognized as particularly suitable for or is readily adaptable to sporting purposes, and if a firearm, that it is not a surplus military weapon and does not come within the definition of a firearm as that term is defined in the National Firearms Act (Chapter 53 of the Internal Revenue Code of 1954).

(c) If the Director approves the application, such approved application shall serve as the authorization (permit) required by §925(d) to import or bring in the firearm or ammunition described therein prior to December 16, 1968. The Director shall furnish the approved application (permit) to the applicant and shall retain two copies for administrative purposes. If the Director disapproves the application, the applicant shall be notified of the basis for the disapproval.

(d) The issuance of a permit to import firearms or ammunition by the Director shall constitute a license to import under section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934) for the firearms or ammunition described in the application for a permit.

(e) A firearm or ammunition imported or brought into the United States under the provisions of this section may be released from customs custody to the person who holds a valid permit issued under the provisions of this section. The customs officer releasing the firearm[s] or ammunition shall retain the permit until (1) importation has been made of all firearms or ammunition authorized to be imported or brought in, by the permit, or (2) December 16, 1968, whichever occurs first, after which he shall forward the permit to the Director.

Sec. 4. Exempt importation.

(a) Firearms and ammunition may be imported or brought into the United States by or for the United States, any department or agency thereof, or any

State, or any department, agency, or political subdivision thereof. A firearm or ammunition imported or brought into the United States under this paragraph may be released from customs custody upon a showing that it is being imported or brought into the United States by or for such a governmental entity.

(b) A firearm or ammunition may be imported or brought into the United States by any person who can establish to the satisfaction of customs that such firearm or ammunition was previously taken out of the United States by such person.

Sec. 5. Conditional importation.

The Director may permit the conditional importation or bringing into the United States of any firearm or ammunition for the purpose of examining and testing the firearm or ammunition in connection with making a determination as to whether the importation or bringing in of such firearm or ammunition will be authorized. An application under this section shall be filed, in duplicate, with the Director. The Director may impose conditions upon any importation under this section including a requirement that the firearm or ammunition be shipped directly from customs custody to the Director and that the person importing or bringing in the firearm or ammunition must agree either to export the firearm or ammunition or destroy it if a final determination is made that the firearm or ammunition may not be imported or brought into the United States. A firearm or ammunition imported or brought into the United States under this section shall be released from customs custody in the manner prescribed by the conditional authorization of the Director.

Sec. 6. Other laws.

Nothing contained in these interim procedures shall be construed as relieving, limiting or mitigating any restrictions with respect to the movement of firearms or ammunition in interstate or foreign commerce under the Federal Firearms Act (15 U.S.C. 901-910) and Title VII, Unlawful Possession or Receipt of Firearms (82 Stat. 236) of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 197).

Sec. 7. Effective date.

The interim firearms and ammunition importation procedures prescribed herein shall be effective on the date of publication in the Federal Register.

Commissioner of Internal Revenue

Approved: October 22, 1968

Secretary of the Treasury