



**U.S. Department of Justice**

Bureau of Alcohol, Tobacco,  
Firearms and Explosives

AUG 24 2004

Washington, DC 20226

www.atf.gov

CC-82,457 FE: TH

Eric M. Larson  
P.O. Box 5497  
Takoma Park, Maryland 20913

Dear Mr. Larson:

I am in receipt of your June 19<sup>th</sup> letter regarding procedures for transferring National Firearms Act (NFA) firearms after the owner of the firearm has died. Specifically, you are concerned that documents that may "entitle" an heir to inherit NFA firearms are not discussed on the ATF website. Because the body of your letter refers specifically to the transfer of pre-1986 machineguns, our response will address those weapons.

The Gun Control Act of 1968 generally prohibits the transfer or possession of machineguns by private citizens, unless the machinegun was lawfully transferred or possessed before May 19, 1986. 18 U.S.C. § 922(o). In order for any machinegun to be lawfully possessed, it must be registered in compliance with the NFA. 26 U.S.C. § 5861(d).

You have referenced the article posted on the Internet that addresses the broader category of all NFA firearms. Generally, most NFA firearms that are properly registered at the time of the owner's death can be transferred within a reasonable amount of time to a lawful heir, beneficiary of the estate, or a person outside of the estate, so long as the transfer is approved by ATF and appropriate taxes are paid. Therefore, there are no documents that "entitle" an heir to inherit an NFA firearm. The procedure for transferring NFA firearms, including pre-1986 machineguns, is set forth in the article you referenced, "Transfers of National Firearms Act Firearms in Decedents' Estates" and in the Federal Firearms Regulations Reference Guide (ATF P 5300.4) Item 15. If you are seeking additional clarification regarding these articles, please provide us with your specific questions and we will address them as promptly as possible.

As to your suggestion that ATF post additional information regarding documents that may establish ownership of pre-1986 machineguns, we do not believe there is any benefit to the public in adding this information to the website. Presently, the information posted regarding transfers of NFA weapons in decedents' estates does not address this issue as it is of no relevance to most transfers. We will continue to work with applicants when the issue of ownership at the time of transfer is in question. However, the law provides that a pre-1986 machinegun can only be transferred if it has been lawfully possessed and registered by the transferor. Therefore, documentation establishing ownership is limited to NFA registration and, in limited circumstances, other records maintained by the Attorney General pursuant to the

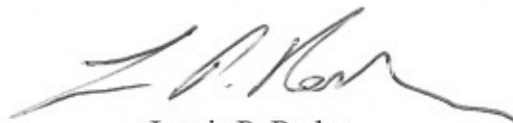
Eric M. Larson

National Firearms Act in force on the day immediately prior to the effective date of the NFA. 26 U.S.C. § 5841(d). The documents mentioned in your letter, such as U.S. military documents issued during World War II authorizing soldiers to retain captured enemy equipment, are not the type of documents included in the NFA registry as evidence of lawful possession and registration. Accordingly, we believe it would merely confuse the issue to specifically mention such documents in ATF publications.

Finally, your letter expresses concern that certain citizens are "deprived of valuable inherited personal property," and this deprivation is somehow associated with their inability to transfer a machinegun. Lawfully owned and registered pre-1986 machineguns can be transferred to approved individuals through the NFA application process. Without more information, we are uncertain as to the obstacles you believe prevent such a transaction.

ATF will continue its efforts to educate and provide accurate guidance to the public regarding the enforcement of Federal firearms laws. Also, please be assured that ATF does not have a policy or practice of seizing and forfeiting machineguns that are lawfully possessed. As previously stated, if you have specific concern regarding an NFA application to transfer a firearm or ATF's enforcement of the provisions of the Gun Control Act or National Firearms Act, please provide me with detailed information and we will respond as quickly as possible.

Sincerely yours,

A handwritten signature in black ink, appearing to read "L. P. Raden", with a long, sweeping underline that extends to the right.

Lewis P. Raden  
Assistant Director  
(Enforcement Programs and Services)