

Legislative Alert - Transferring Certain Firearms Into Your Gun Trust

By James Crossland

If you own firearms, precisely one with an attached stabilizing brace or pistol brace, consider transferring the firearm to a Gun Trust as soon as possible. The Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) recently published a new rule that regulates the possession of firearms with such a brace. The rule will reclassify such firearms as "NFA items," guns controlled by the National Firearms Act. Traditionally, the NFA regulated items such as machine guns, suppressors (silencers), and short-barreled rifles. Although it is possible to own such an item, the owner must go through a much more thorough, expensive application process that culminates in a tax stamp being issued for each such NFA item.

Against this backdrop, a Gun Trust is an NFA-specific estate planning tool used to protect the owner's potential users of such items. Although possession of any firearm requires the utmost responsibility of the owner, possession of an NFA item can have unintended consequences for your family and your heirs.

Specifically, a Gun Trust achieves two primary purposes. First, a Gun Trust protects prohibited individuals (such as kids or family members with a criminal record) from inadvertently becoming owners of such an item. Second, a Gun Trust allows the owner of the NFA item to designate who else may use the item. This protects both the owner and potential user (such as a spouse, child, or friend) from being considered in possession of an NFA item. The legal ramifications for illegally having an NFA item are severe.

Firearms with attached pistol braces are now considered NFA-controlled firearms and must be registered with the ATF. However, if the owner of such a firearm wishes to include it in a Gun Trust, the Gun Trust (or assignment to an existing Gun Trust) must occur before the new rule is published in the Federal Register. Publication may occur as soon as tomorrow, January 31, 2023. If you own a firearm with an attached pistol brace, we urge you to consider transferring it to a Gun Trust now.

Suppose a person inherits an NFA item but would otherwise be prohibited from having the item (such as minors or someone with a criminal record). There, such a person may still be considered to have had the NFA item upon your death. They could become subject to severe fines and potential imprisonment. Likewise, as the owner of an NFA item, you must keep the item under your possession and control. If someone else has access to the NFA item but is not listed as an owner or trustee under a Gun Trust, you and that person could face serious legal consequences. This scenario is not limited to taking precautions to prohibit unknown or irresponsible individuals from accessing your NFA item (such as kids).

This rule goes into effect on the publication date in the Federal Register. It allows 120 days for manufacturers, dealers, and individuals to register existing NFA short-barreled rifles covered by the rule.

More and more gun legislation will be passed for avid gun lovers in the future. If you want to learn more about gun trusts for estate purposes, call the team at Altman & Associates at [301-468-3220](tel:301-468-3220) and [schedule a consultation](#).



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