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NATIONAL FIREARMS ACT TRUSTS

There are many reasons to create and develop an estate plan. These reasons may include providing for the transfer of National Firearms Act regulated firearms.

The U.S. Treasury Department's Bureau of Alcohol, Tobacco, and Firearms (ATF), in an open letter dated September 5, 1999, stated that:

"If there are unregistered NFA firearms in the estate, these firearms are contraband and cannot be registered by the estate. The executor of the estate should contact the local ATF office to arrange for the abandonment of the unregistered firearms."

[NFA Letter September 5, 1999 - Transfers of National Firearms Act Firearms in Decedents' Estates](#)

NFA firearms are those firearms classified under **The National Firearms Act** (NFA) of 1936, as amended. The NFA, among other regulations, regulates the legal ownership, use and transfer of machine guns, "short-barreled" rifles and shotguns, silencers, destructive devices, and "any other weapon[s]" [AOW] [PART 479 -- Machine Guns, Destructive Devices, and Certain other Firearms](#). NFA controlled items must be registered, and those items not properly registered are illegal and, if found, will be confiscated by the ATF. NFA regulated firearms cannot be transferred to an individual's estate without *re-registering* the firearms to a "person" as defined by [U.S. Code of Federal Regulations Title 27 Chapter 1 Section 70.11](#). Persons found to be in possession of unregistered firearms under U.S. Code Title 27 Part 479, may be subject to fines and/or incarceration under [26 U.S.C. 5871](#). It is imperative, therefore, for the transfer of such assets be arranged prior to the owner's death or incapacity.

One of the ways in which an individual may affect a legal transfer upon passing of their firearms to the beneficiaries of their estate is a "NFA Trust." A NFA Trust, or "NFA Gun Trust" or "Gun Trust" is permitted under the National Firearms Act (NFA) (the "Act") to own possess, use, and transfer a firearm or weapon that is regulated under the Act. The benefits of forming such a trust extend beyond the ability to facilitate the legal transfer of such firearms or weapons, as assets, to the heirs of the beneficial owner of the trust. ***NFA Trusts are permitted to legally purchase such firearms and may have the ability to facilitate the legal use of such firearms by persons, selected by the trustee of the trust, in a way that is typically unavailable, or more difficult, in other forms of ownership.***

NFA Trusts are specialized instruments that an experienced attorney would need to prepare separately, and in addition to, your other estate planning documents. If you are now, or are interested in becoming, the legal owner of such assets, or you have any further questions about this type of trust, please feel free to call us.

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