

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-859 effective on Sept. 3, 1958, see section 210(a)(1) of Pub. L. 85-859, set out as an Effective Date note under section 5001 of this title.

CHAPTER 53—MACHINE GUNS, DESTRUCTIVE DEVICES, AND CERTAIN OTHER FIREARMS

Subchapter	Sec. <sup>1</sup>
A. Taxes .....	5801
B. General provisions and exemptions .....	5841
C. Prohibited acts .....	5861
D. Penalties and forfeitures .....	5871

PRIOR PROVISIONS

A prior chapter 53, act Aug. 16, 1954, ch. 736, 68A Stat. 721, was generally revised by Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1227. The analysis reflects changes:

- “Machine Guns, Destructive Devices, and Certain Other Firearms” for “Machine Guns and Certain Other Firearms” in the chapter heading;
- “General provisions and exemptions” for “General provisions” in subchapter B;
- “Prohibited acts” for “Unlawful acts” in subchapter C.

Subchapter A—Taxes

Part	
I. Special (occupational) taxes.	
II. Tax on transferring firearms.	
III. Tax on making firearms.	

PRIOR PROVISIONS

A prior subchapter A consisted of parts I to IV, prior to the general revision of this chapter by Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1227.

PART I—SPECIAL (OCCUPATIONAL) TAXES

Sec.	
5801. Imposition of tax.	
5802. Registration of importers, manufacturers, and dealers.	

PRIOR PROVISIONS

A prior part I, act Aug. 16, 1964, ch. 736, 68A Stat. 721, and amended thereafter, consisted of sections 5801 to 5803, prior to the general revision of this chapter by Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1228.

AMENDMENTS

1987—Pub. L. 100-203, title X, §10512(g)(2), Dec. 22, 1987, 101 Stat. 1330-450, substituted “Imposition of tax” for “Tax” in item 5801.

§ 5801. Imposition of tax

(a) General rule

On 1st engaging in business and thereafter on or before July 1 of each year, every importer, manufacturer, and dealer in firearms shall pay a special (occupational) tax for each place of business at the following rates:

- (1) Importers and manufacturers: \$1,000 a year or fraction thereof.
- (2) Dealers: \$500 a year or fraction thereof.

(b) Reduced rates of tax for small importers and manufacturers

(1) In general

Paragraph (1) of subsection (a) shall be applied by substituting “\$500” for “\$1,000” with

<sup>1</sup> Section numbers editorially supplied.

respect to any taxpayer the gross receipts of which (for the most recent taxable year ending before the 1st day of the taxable period to which the tax imposed by subsection (a) relates) are less than \$500,000.

(2) Controlled group rules

All persons treated as 1 taxpayer under section 5061(e)(3) shall be treated as 1 taxpayer for purposes of paragraph (1).

(3) Certain rules to apply

For purposes of paragraph (1), rules similar to the rules of subparagraphs (B) and (C) of section 448(c)(3) shall apply.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1227; amended Pub. L. 100-203, title X, §10512(g)(1), Dec. 22, 1987, 101 Stat. 1330-449.)

PRIOR PROVISIONS

A prior section 5801, acts Aug. 16, 1954, ch. 736, 68A Stat. 721; Sept. 2, 1958, Pub. L. 85-859, title II, §203(a), 72 Stat. 1427; June 1, 1960, Pub. L. 86-478, §1, 74 Stat. 149, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

1987—Pub. L. 100-203 substituted “Imposition of tax” for “Tax” in section catchline and amended text generally. Prior to amendment, text read as follows: “On first engaging in business and thereafter on or before the first day of July of each year, every importer, manufacturer, and dealer in firearms shall pay a special (occupational) tax for each place of business at the following rates:

- “(1) Importers.—\$500 a year or fraction thereof;
- “(2) Manufacturers.—\$500 a year or fraction thereof;
- “(3) Dealers.—\$200 a year or fraction thereof.

Except an importer, manufacturer, or dealer who imports, manufactures, or deals in only weapons classified as ‘any other weapon’ under section 5845(e), shall pay a special (occupational) tax for each place of business at the following rates: Importers, \$25 a year or fraction thereof; manufacturers, \$25 a year or fraction thereof; dealers, \$10 a year or fraction thereof.”

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 effective Jan. 1, 1988, see section 10512(h) of Pub. L. 100-203, set out as a note under section 5111 of this title.

EFFECTIVE DATE

Pub. L. 90-618, title II, §207, Oct. 22, 1968, 82 Stat. 1235, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(a) Section 201 of this title [enacting this chapter] shall take effect on the first day of the first month following the month in which it is enacted [October 1968].

“(b) Notwithstanding the provisions of subsection (a) or any other provision of law, any person possessing a firearm as defined in section 5845(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by this title) which is not registered to him in the National Firearms Registration and Transfer Record shall register each firearm so possessed with the Secretary of the Treasury or his delegate in such form and manner as the Secretary or his delegate may require within the thirty days immediately following the effective date of section 201 of this Act [see subsec. (a) of this section]. Such registrations shall become a part of the National Firearms Registration and Transfer Record required to be maintained by section 5841 of the Internal Revenue Code of 1986 (as amended by this title). No information or evidence required to be submitted or retained by a natural person to register a firearm under this section shall be used, directly or indirectly, as evidence against

such person in any criminal proceeding with respect to a prior or concurrent violation of law.

“(c) The amendments made by sections 202 through 206 of this title [amending sections 6806 and 7273 of this title, repealing sections 5692 and 6107 of this title, and enacting provisions set out as a note under this section] shall take effect on the date of enactment [Oct. 22, 1968].

“(d) The Secretary of the Treasury, after publication in the Federal Register of his intention to do so, is authorized to establish such period of amnesty, not to exceed ninety days in the case of any single period, and immunity from liability during any such period, as the Secretary determines will contribute to the purposes of this title [adding this chapter, and sections 6806 and 7273 of this title, repealing sections 5692 and 6107 of this title, and enacting provisions set out as notes under this section].”

#### § 5802. Registration of importers, manufacturers, and dealers

On first engaging in business and thereafter on or before the first day of July of each year, each importer, manufacturer, and dealer in firearms shall register with the Secretary in each internal revenue district in which such business is to be carried on, his name, including any trade name, and the address of each location in the district where he will conduct such business. An individual required to register under this section shall include a photograph and fingerprints of the individual with the initial application. Where there is a change during the taxable year in the location of, or the trade name used in, such business, the importer, manufacturer, or dealer shall file an application with the Secretary to amend his registration. Firearms operations of an importer, manufacturer, or dealer may not be commenced at the new location or under a new trade name prior to approval by the Secretary of the application.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1227; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 103-322, title XI, §110301(b), Sept. 13, 1994, 108 Stat. 2012.)

##### PRIOR PROVISIONS

A prior section 5802, act Aug. 16, 1954, ch. 736, 68A Stat. 721, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 90-618.

A prior section 5803, act Aug. 16, 1954, ch. 736, 68A Stat. 722, made a cross reference to section 5812 exempting certain transfers, prior to the general revision of this chapter by Pub. L. 90-618.

##### AMENDMENTS

1994—Pub. L. 103-322 inserted after first sentence “An individual required to register under this section shall include a photograph and fingerprints of the individual with the initial application.”

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

#### PART II—TAX ON TRANSFERRING FIREARMS

Sec.	
5811.	Transfer tax.
5812.	Transfers.

##### PRIOR PROVISIONS

A prior part II consisted of sections 5811 to 5814, prior to the general revision of this chapter by Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1227.

#### § 5811. Transfer tax

##### (a) Rate

There shall be levied, collected, and paid on firearms transferred a tax at the rate of \$200 for each firearm transferred, except, the transfer tax on any firearm classified as any other weapon under section 5845(e) shall be at the rate of \$5 for each such firearm transferred.

##### (b) By whom paid

The tax imposed by subsection (a) of this section shall be paid by the transferor.

##### (c) Payment

The tax imposed by subsection (a) of this section shall be payable by the appropriate stamps prescribed for payment by the Secretary.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1228; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

##### PRIOR PROVISIONS

A prior section 5811, acts Aug. 16, 1954, ch. 736, 68A Stat. 722; Sept. 2, 1958, Pub. L. 85-859, title II, §203(b), 72 Stat. 1427; June 1, 1960, Pub. L. 86-478, §2, 74 Stat. 149, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 90-618.

##### AMENDMENTS

1976—Subsec. (c). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

##### EFFECTIVE DATE

Section effective on first day of first month following October 1968, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

#### § 5812. Transfers

##### (a) Application

A firearm shall not be transferred unless (1) the transferor of the firearm has filed with the Secretary a written application, in duplicate, for the transfer and registration of the firearm to the transferee on the application form prescribed by the Secretary; (2) any tax payable on the transfer is paid as evidenced by the proper stamp affixed to the original application form; (3) the transferee is identified in the application form in such manner as the Secretary may by regulations prescribe, except that, if such person is an individual, the identification must include his fingerprints and his photograph; (4) the transferor of the firearm is identified in the application form in such manner as the Secretary may by regulations prescribe; (5) the firearm is identified in the application form in such manner as the Secretary may by regulations prescribe; and (6) the application form shows that the Secretary has approved the transfer and the registration of the firearm to the transferee. Applications shall be denied if the transfer, receipt, or possession of the firearm would place the transferee in violation of law.

##### (b) Transfer of possession

The transferee of a firearm shall not take possession of the firearm unless the Secretary has approved the transfer and registration of the firearm to the transferee as required by subsection (a) of this section.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1228; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5812, act Aug. 16, 1954, ch. 736, 68A Stat. 722, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 90-618.

A prior section 5813, act Aug. 16, 1954, ch. 736, 68A Stat. 723, related to the affixing of the required stamps to the order form for the firearm, prior to the general revision of this chapter by Pub. L. 90-618.

A prior section 5814, acts Aug. 16, 1954, ch. 736, 68A Stat. 723; Sept. 2, 1958, Pub. L. 85-859, title II, §203(c), 72 Stat. 1427, related to the order forms required for the transfer of a firearm, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

1976—Subsecs. (a), (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

PART III—TAX ON MAKING FIREARMS

Sec.	
5821.	Making tax.
5822.	Making.

PRIOR PROVISIONS

A prior part III consisted of section 5821, prior to the general revision of this chapter by Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1227.

A prior part IV consisted of section 5831, prior to the general revision of this chapter by Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1227.

§ 5821. Making tax

(a) Rate

There shall be levied, collected, and paid upon the making of a firearm a tax at the rate of \$200 for each firearm made.

(b) By whom paid

The tax imposed by subsection (a) of this section shall be paid by the person making the firearm.

(c) Payment

The tax imposed by subsection (a) of this section shall be payable by the stamp prescribed for payment by the Secretary.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1228; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5821, acts Aug. 16, 1954, ch. 736, 68A Stat. 724; Sept. 2, 1958, Pub. L. 85-859, title II, §203(d), 72 Stat. 1427, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE

Section effective on first day of first month following October 1968, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

§ 5822. Making

No person shall make a firearm unless he has (a) filed with the Secretary a written applica-

tion, in duplicate, to make and register the firearm on the form prescribed by the Secretary; (b) paid any tax payable on the making and such payment is evidenced by the proper stamp affixed to the original application form; (c) identified the firearm to be made in the application form in such manner as the Secretary may by regulations prescribe; (d) identified himself in the application form in such manner as the Secretary may by regulations prescribe, except that, if such person is an individual, the identification must include his fingerprints and his photograph; and (e) obtained the approval of the Secretary to make and register the firearm and the application form shows such approval. Applications shall be denied if the making or possession of the firearm would place the person making the firearm in violation of law.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1228; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5831, act Aug. 16, 1954, ch. 736, 68A Stat. 724, made a cross reference to section 4181 of this title relating to an excise tax on pistols, revolvers, and firearms, prior to the general revision of this chapter by Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1227.

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

Subchapter B—General Provisions and Exemptions

Part	
I.	General provisions.
II.	Exemptions.

PRIOR PROVISIONS

A prior subchapter B consisted of sections 5841 to 5848, prior to the general revision of this chapter by Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1227.

PART I—GENERAL PROVISIONS

Sec.	
5841.	Registration of firearms.
5842.	Identification of firearms.
5843.	Records and returns.
5844.	Importation.
5845.	Definitions.
5846.	Other laws applicable.
5847.	Effect on other laws.
5848.	Restrictive use of information.
5849.	Citation of chapter.

AMENDMENTS

2018—Pub. L. 115-141, div. U, title IV, §401(a)(251), Mar. 23, 2018, 132 Stat. 1196, substituted “Effect on other laws” for “Effect on other law” in item 5847.

§ 5841. Registration of firearms

(a) Central registry

The Secretary shall maintain a central registry of all firearms in the United States which are not in the possession or under the control of the United States. This registry shall be known as the National Firearms Registration and Transfer Record. The registry shall include—

- (1) identification of the firearm;
- (2) date of registration; and

(3) identification and address of person entitled to possession of the firearm.

**(b) By whom registered**

Each manufacturer, importer, and maker shall register each firearm he manufactures, imports, or makes. Each firearm transferred shall be registered to the transferee by the transferor.

**(c) How registered**

Each manufacturer shall notify the Secretary of the manufacture of a firearm in such manner as may by regulations be prescribed and such notification shall effect the registration of the firearm required by this section. Each importer, maker, and transferor of a firearm shall, prior to importing, making, or transferring a firearm, obtain authorization in such manner as required by this chapter or regulations issued thereunder to import, make, or transfer the firearm, and such authorization shall effect the registration of the firearm required by this section.

**(d) Firearms registered on effective date of this Act**

A person shown as possessing a firearm by the records maintained by the Secretary pursuant to the National Firearms Act in force on the day immediately prior to the effective date of the National Firearms Act of 1968<sup>1</sup> shall be considered to have registered under this section the firearms in his possession which are disclosed by that record as being in his possession.

**(e) Proof of registration**

A person possessing a firearm registered as required by this section shall retain proof of registration which shall be made available to the Secretary upon request.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1229; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

REFERENCES IN TEXT

The National Firearms Act in force prior to the effective date of the National Firearms Act of 1968, referred to in subsec. (d), probably means the National Firearms Act in force prior to the effective date of the National Firearms Act Amendments of 1968, which is act Aug. 16, 1954, ch. 736, 68A Stat. 721, as amended, and which was classified generally to prior chapter 53 (prior §5801 et seq.) of this title.

The effective date of this Act and the effective date of the National Firearms Act of 1968, referred to in subsec. (d) catchline and text, probably means the effective date of the National Firearms Act Amendments of 1968, which is Nov. 1, 1968. See section 207(a) of Pub. L. 90-618, set out as an Effective Date note under section 5801 of this title.

PRIOR PROVISIONS

A prior section 5841, act Aug. 16, 1954, ch. 736, 68A Stat. 725, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

1976—Subsecs. (a), (c) to (e). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

EFFECTIVE DATE

Section effective on first day of first month following October 1968, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

<sup>1</sup> So in original. See References in Text notes below.

**§ 5842. Identification of firearms**

**(a) Identification of firearms other than destructive devices**

Each manufacturer and importer and anyone making a firearm shall identify each firearm, other than a destructive device, manufactured, imported, or made by a serial number which may not be readily removed, obliterated, or altered, the name of the manufacturer, importer, or maker, and such other identification as the Secretary may by regulations prescribe.

**(b) Firearms without serial number**

Any person who possesses a firearm, other than a destructive device, which does not bear the serial number and other information required by subsection (a) of this section shall identify the firearm with a serial number assigned by the Secretary and any other information the Secretary may by regulations prescribe.

**(c) Identification of destructive device**

Any firearm classified as a destructive device shall be identified in such manner as the Secretary may by regulations prescribe.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1230; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5842, act Aug. 16, 1954, ch. 736, 68A Stat. 725, related to books, records, and returns, prior to the general revision of this chapter by Pub. L. 90-618.

Provisions similar to those comprising this section were contained in prior section 5843, act Aug. 16, 1954, ch. 736, 68A Stat. 725, as amended by act Sept. 2, 1958, Pub. L. 85-859, title II, §203(e), 72 Stat. 1427, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

**§ 5843. Records and returns**

Importers, manufacturers, and dealers shall keep such records of, and render such returns in relation to, the importation, manufacture, making, receipt, and sale, or other disposition, of firearms as the Secretary may by regulations prescribe.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1230; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5843, act Aug. 16, 1954, ch. 736, 68A Stat. 725, as amended by act Sept. 2, 1958, Pub. L. 85-859, title II, §203(e), 72 Stat. 1427, related to identification of firearms prior to the general revision of this chapter by Pub. L. 90-618.

Provisions similar to those comprising this section were contained in prior section 5842, act Aug. 16, 1954, 68A Stat. 725, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

**§ 5844. Importation**

No firearm shall be imported or brought into the United States or any territory under its con-

trol or jurisdiction unless the importer establishes, under regulations as may be prescribed by the Secretary, that the firearm to be imported or brought in is—

(1) being imported or brought in for the use of the United States or any department, independent establishment, or agency thereof or any State or possession or any political subdivision thereof; or

(2) being imported or brought in for scientific or research purposes; or

(3) being imported or brought in solely for testing or use as a model by a registered manufacturer or solely for use as a sample by a registered importer or registered dealer;

except that, the Secretary may permit the conditional importation or bringing in of a firearm for examination and testing in connection with classifying the firearm.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1230; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

#### PRIOR PROVISIONS

A prior section 5844, act Aug. 16, 1954, ch. 736, 68A Stat. 725, related to exportation, prior to the general revision of this chapter by Pub. L. 90-618.

Provisions similar to those comprising this section were contained in prior section 5845, act Aug. 16, 1954, ch. 736, 68A Stat. 725, prior to the general revision of this chapter by Pub. L. 90-618.

#### AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

### § 5845. Definitions

For the purpose of this chapter—

#### (a) Firearm

The term “firearm” means (1) a shotgun having a barrel or barrels of less than 18 inches in length; (2) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (3) a rifle having a barrel or barrels of less than 16 inches in length; (4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (5) any other weapon, as defined in subsection (e); (6) a machinegun; (7) any silencer (as defined in section 921 of title 18, United States Code); and (8) a destructive device. The term “firearm” shall not include an antique firearm or any device (other than a machinegun or destructive device) which, although designed as a weapon, the Secretary finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector’s item and is not likely to be used as a weapon.

#### (b) Machinegun

The term “machinegun” means any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely

and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.

#### (c) Rifle

The term “rifle” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed cartridge.

#### (d) Shotgun

The term “shotgun” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed shotgun shell.

#### (e) Any other weapon

The term “any other weapon” means any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive, a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and shall include any such weapon which may be readily restored to fire. Such term shall not include a pistol or a revolver having a rifled bore, or rifled bores, or weapons designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition.

#### (f) Destructive device

The term “destructive device” means (1) any explosive, incendiary, or poison gas (A) bomb, (B) grenade, (C) rocket having a propellant charge of more than four ounces, (D) missile having an explosive or incendiary charge of more than one-quarter ounce, (E) mine, or (F) similar device; (2) any type of weapon 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, the barrel or barrels of which have a bore of more than one-half inch in diameter, except a shotgun or shotgun shell which the Secretary finds is generally recognized as particularly suitable for sporting purposes; and (3) any combination of parts either designed or intended for use in converting any device into a destructive device as defined in subparagraphs (1) and (2) 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 7684(2), 7685, or 7686 of title 10, United States Code; or any other device which the Secretary finds is not likely to be used as a weapon, or is an antique or is a rifle which the owner intends to use solely for sporting purposes.

**(g) Antique firearm**

The term “antique firearm” means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

**(h) Unserviceable firearm**

The term “unserviceable firearm” means a firearm which is incapable of discharging a shot by means of an explosive and incapable of being readily restored to a firing condition.

**(i) Make**

The term “make”, and the various derivatives of such word, shall include manufacturing (other than by one qualified to engage in such business under this chapter), putting together, altering, any combination of these, or otherwise producing a firearm.

**(j) Transfer**

The term “transfer” and the various derivatives of such word, shall include selling, assigning, pledging, leasing, loaning, giving away, or otherwise disposing of.

**(k) Dealer**

The term “dealer” means any person, not a manufacturer or importer, engaged in the business of selling, renting, leasing, or loaning firearms and shall include pawnbrokers who accept firearms as collateral for loans.

**(l) Importer**

The term “importer” means any person who is engaged in the business of importing or bringing firearms into the United States.

**(m) Manufacturer**

The term “manufacturer” means any person who is engaged in the business of manufacturing firearms.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1230; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), (J), Oct. 4, 1976, 90 Stat. 1834, 1835; Pub. L. 99-308, §109, May 19, 1986, 100 Stat. 460; Pub. L. 115-232, div. A, title VIII, §809(h)(3), Aug. 13, 2018, 132 Stat. 1842.)

PRIOR PROVISIONS

A prior section 5845, act Aug. 16, 1954, ch. 736, 68A Stat. 725, related to the importation of firearms into

the United States or its territory, prior to the general revisions of this chapter by Pub. L. 90-618.

Provisions similar to those comprising this section were contained in prior section 5848, act Aug. 16, 1954, ch. 736, 68A Stat. 727, as amended by acts Sept. 2, 1958, Pub. L. 85-859, title II, §203(f), 72 Stat. 1427; June 1, 1960, Pub. L. 86-478, §3, 74 Stat. 149, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

2018—Subsec. (f). Pub. L. 115-232 substituted “section 7684(2), 7685, or 7686 of title 10, United States Code” for “section 4684(2), 4685, or 4686 of title 10 of the United States Code”.

1986—Subsec. (a)(7). Pub. L. 99-308, §109(b), substituted “any silencer (as defined in section 921 of title 18, United States Code)” for “a muffler or a silencer for any firearm whether or not such firearm is included within this definition”.

Subsec. (b). Pub. L. 99-308, §109(a), substituted “any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun,” for “any combination of parts designed and intended for use in converting a weapon into a machinegun.”

1976—Subsec. (a). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (f). Pub. L. 94-455, §1906(b)(13)(A), (J), struck out “or his delegate” after “shotgun or shotgun shell which the Secretary” and “of the Treasury or his delegate” after “or any other device which the Secretary”.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-308 effective 180 days after May 19, 1986, see section 110(a) of Pub. L. 99-308, set out as a note under section 921 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE

Section effective on first day of first month following October 1968, except as to persons possessing firearms as defined in subsec. (a) of this section which are not registered to such persons in the National Firearms Registration and Transfer Record, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

**§ 5846. Other laws applicable**

All provisions of law relating to special taxes imposed by chapter 51 and to engraving, issuance, sale, accountability, cancellation, and distribution of stamps for tax payment shall, insofar as not inconsistent with the provisions of this chapter, be applicable with respect to the taxes imposed by sections 5801, 5811, and 5821.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1232.)

PRIOR PROVISIONS

A prior section 5846, act Aug. 16, 1954, ch. 736, 68A Stat. 726, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 90-618.

**§ 5847. Effect on other laws**

Nothing in this chapter shall be construed as modifying or affecting the requirements of section 38 of the Arms Export Control Act (22

U.S.C. 2778), as amended, with respect to the manufacture, exportation, and importation of arms, ammunition, and implements of war.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1232; amended Pub. L. 115-141, div. U, title IV, §401(a)(252), Mar. 23, 2018, 132 Stat. 1196.)

#### PRIOR PROVISIONS

A prior section 5847, act Aug. 16, 1954, ch. 736, 68A Stat. 726, related to regulations which the Secretary or his delegate may prescribe, prior to the general revision of this chapter by Pub. L. 90-618.

#### AMENDMENTS

2018—Pub. L. 115-141 substituted “section 38 of the Arms Export Control Act (22 U.S.C. 2778)” for “section 414 of the Mutual Security Act of 1954”.

### § 5848. Restrictive use of information

#### (a) General rule

No information or evidence obtained from an application, registration, or records required to be submitted or retained by a natural person in order to comply with any provision of this chapter or regulations issued thereunder, shall, except as provided in subsection (b) of this section, be used, directly or indirectly, as evidence against that person in a criminal proceeding with respect to a violation of law occurring prior to or concurrently with the filing of the application or registration, or the compiling of the records containing the information or evidence.

#### (b) Furnishing false information

Subsection (a) of this section shall not preclude the use of any such information or evidence in a prosecution or other action under any applicable provision of law with respect to the furnishing of false information.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1232.)

#### PRIOR PROVISIONS

A prior section 5848, act Aug. 16, 1954, ch. 736, 68A Stat. 727, as amended by acts Sept. 2, 1958, Pub. L. 85-859, title II, §203(f), 72 Stat. 1427; June 1, 1960, Pub. L. 86-478, §3, 74 Stat. 149, related to definition of a firearm, machine gun, rifle, shotgun, other weapon, importer, manufacturer, dealer, interstate commerce, transfer and person, prior to the general revision of this chapter by Pub. L. 90-618.

### § 5849. Citation of chapter

This chapter may be cited as the “National Firearms Act” and any reference in any other provision of law to the “National Firearms Act” shall be held to refer to the provisions of this chapter.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1232.)

#### PRIOR PROVISIONS

A prior section 5849, Pub. L. 85-859, title II, §203(g)(1), Sept. 2, 1958, 72 Stat. 1427, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 90-618.

#### SHORT TITLE

Pub. L. 90-618, title II, §202, Oct. 22, 1968, 82 Stat. 1235, provided that: “The amendments made by section 201 of

this title [enacting this chapter] shall be cited as the ‘National Firearms Act Amendments of 1968.’”

## PART II—EXEMPTIONS

#### Sec.

- |       |   |
|-------|---|
| 5851. | Special (occupational) tax exemption.   |
| 5852. | General transfer and making tax exemption.                                    |
| 5853. | Transfer and making tax exemption available to certain governmental entities. |
| 5854. | Exportation of firearms exempt from transfer tax.                             |

#### AMENDMENTS

2018—Pub. L. 115-141, div. U, title IV, §401(a)(253), (254), Mar. 23, 2018, 132 Stat. 1196, substituted “General transfer and making tax exemption” for “General transfer and making exemption” in item 5852 and “Transfer and making tax exemption available to certain governmental entities” for “Exemption from transfer and making tax available to certain governmental entities and officials” in item 5853.

### § 5851. Special (occupational) tax exemption

#### (a) Business with United States

Any person required to pay special (occupational) tax under section 5801 shall be relieved from payment of that tax if he establishes to the satisfaction of the Secretary that his business is conducted exclusively with, or on behalf of, the United States or any department, independent establishment, or agency thereof. The Secretary may relieve any person manufacturing firearms for, or on behalf of, the United States from compliance with any provision of this chapter in the conduct of such business.

#### (b) Application

The exemption provided for in subsection (a) of this section may be obtained by filing with the Secretary an application on such form and containing such information as may be regulations be prescribed. The exemptions must thereafter be renewed on or before July 1 of each year. Approval of the application by the Secretary shall entitle the applicant to the exemptions stated on the approved application.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1233; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

#### PRIOR PROVISIONS

A prior section 5851, act Aug. 16, 1954, ch. 736, 68A Stat. 728, as amended by act Sept. 2, 1958, Pub. L. 85-859, title II, §203(h)(1), (2), 72 Stat. 1428, related to possessing firearms illegally, prior to the general revision of this chapter by Pub. L. 90-618. See section 5861(b) of this title.

Provisions similar to those comprising this section were contained in prior section 5812, act Aug. 16, 1954, ch. 736, 68A Stat. 722, prior to the general revision of this chapter by Pub. L. 90-618.

#### AMENDMENTS

1976—Subsecs. (a), (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

#### EFFECTIVE DATE

Section effective on first day of first month following October 1968, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

### § 5852. General transfer and making tax exemption

#### (a) Transfer

Any firearm may be transferred to the United States or any department, independent estab-

lishment, or agency thereof, without payment of the transfer tax imposed by section 5811.

**(b) Making by a person other than a qualified manufacturer**

Any firearm may be made by, or on behalf of, the United States, or any department, independent establishment, or agency thereof, without payment of the making tax imposed by section 5821.

**(c) Making by a qualified manufacturer**

A manufacturer qualified under this chapter to engage in such business may make the type of firearm which he is qualified to manufacture without payment of the making tax imposed by section 5821.

**(d) Transfers between special (occupational) taxpayers**

A firearm registered to a person qualified under this chapter to engage in business as an importer, manufacturer, or dealer may be transferred by that person without payment of the transfer tax imposed by section 5811 to any other person qualified under this chapter to manufacture, import, or deal in that type of firearm.

**(e) Unserviceable firearm**

An unserviceable firearm may be transferred as a curio or ornament without payment of the transfer tax imposed by section 5811, under such requirements as the Secretary may by regulations prescribe.

**(f) Right to exemption**

No firearm may be transferred or made exempt from tax under the provisions of this section unless the transfer or making is performed pursuant to an application in such form and manner as the Secretary may by regulations prescribe.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1233; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5852, act Aug. 16, 1954, ch. 736, 68A Stat. 728, related to removing or changing identification marks, prior to the general revision of this chapter by Pub. L. 90-618. See section 5861(g) of this title and section 922(k) of Title 18, Crimes and Criminal Procedure.

Provisions similar to those comprising this section were contained in prior section 5814, act Aug. 16, 1954, ch. 736, 68A Stat. 723, as amended by act Sept. 2, 1958, Pub. L. 85-859, title II, §203(c), 72 Stat. 1427, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

1976—Subsecs. (e), (f). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

**§ 5853. Transfer and making tax exemption available to certain governmental entities**

**(a) Transfer**

A firearm may be transferred without the payment of the transfer tax imposed by section 5811 to any State, possession of the United States, any political subdivision thereof, or any official police organization of such a government entity engaged in criminal investigations.

**(b) Making**

A firearm may be made without payment of the making tax imposed by section 5821 by, or on behalf of, any State, or possession of the United States, any political subdivision thereof, or any official police organization of such a government entity engaged in criminal investigations.

**(c) Right to exemption**

No firearm may be transferred or made exempt from tax under this section unless the transfer or making is performed pursuant to an application in such form and manner as the Secretary may by regulations prescribe.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1233; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5853, act Aug. 16, 1954, ch. 736, 68A Stat. 728, related to importing firearms illegally, prior to the general revision of this chapter by Pub. L. 90-618. See section 5861(k) of this title and section 922(a) of Title 18, Crimes and Criminal Procedure.

Provisions similar to those comprising this section were contained in prior section 5821, act Aug. 16, 1954, ch. 736, 68A Stat. 724, as amended by act Sept. 2, 1958, Pub. L. 85-859, title II, §203(d), 72 Stat. 1427, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

**§ 5854. Exportation of firearms exempt from transfer tax**

A firearm may be exported without payment of the transfer tax imposed under section 5811 provided that proof of the exportation is furnished in such form and manner as the Secretary may by regulations prescribe.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1234; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

PRIOR PROVISIONS

A prior section 5854, Pub. L. 85-859, title II, §203(i)(1), Sept. 2, 1958, 72 Stat. 1428, related to failure to register and pay special tax, prior to the general revision of this chapter by Pub. L. 90-618. See section 5861(a), (d) of this title and section 923 of Title 18, Crimes and Criminal Procedure.

Provisions similar to those comprising this section were contained in prior section 5844, act Aug. 16, 1954, ch. 736, 68A Stat. 725, prior to the general revision of this chapter by Pub. L. 90-618.

A prior section 5855, Pub. L. 85-859, title II, §203(i)(1), Sept. 2, 1958, 72 Stat. 1428, made it unlawful for any person required to comply with the provisions of sections 5814, 5821, and 5841 of this title, to ship, carry or deliver any firearm in interstate commerce if such sections had not been complied with, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

**Subchapter C—Prohibited Acts**

Sec.  
5861. Prohibited acts.<sup>1</sup>

<sup>1</sup> Editorially supplied. Subchapter added by Pub. L. 90-618 without a subchapter analysis.

PRIOR PROVISIONS

A prior subchapter C consisted of sections 5851 to 5854, prior to the general revision of this chapter by Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1227.

§ 5861. Prohibited acts

It shall be unlawful for any person—

(a) to engage in business as a manufacturer or importer of, or dealer in, firearms without having paid the special (occupational) tax required by section 5801 for his business or having registered as required by section 5802; or

(b) to receive or possess a firearm transferred to him in violation of the provisions of this chapter; or

(c) to receive or possess a firearm made in violation of the provisions of this chapter; or

(d) to receive or possess a firearm which is not registered to him in the National Firearms Registration and Transfer Record; or

(e) to transfer a firearm in violation of the provisions of this chapter; or

(f) to make a firearm in violation of the provisions of this chapter; or

(g) to obliterate, remove, change, or alter the serial number or other identification of a firearm required by this chapter; or

(h) to receive or possess a firearm having the serial number or other identification required by this chapter obliterated, removed, changed, or altered; or

(i) to receive or possess a firearm which is not identified by a serial number as required by this chapter; or

(j) to transport, deliver, or receive any firearm in interstate commerce which has not been registered as required by this chapter; or

(k) to receive or possess a firearm which has been imported or brought into the United States in violation of section 5844; or

(l) to make, or cause the making of, a false entry on any application, return, or record required by this chapter, knowing such entry to be false.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1234.)

PRIOR PROVISIONS

A prior section 5861, act Aug. 16, 1954, ch. 736, 68A Stat. 729, relating to penalties, was omitted in the general revision of this chapter by Pub. L. 90-618.

Provisions similar to those comprising subsecs. (a), (b), (d), (g), (j), and (k) of this section were contained in prior sections of act Aug. 16, 1954, prior to the general revision of this chapter by Pub. L. 90-618, as follows:

<i>Present subsecs.:</i>	<i>Prior sections</i>
(a) .....	5854.
(b) .....	5851.
(d) .....	5854.
(g) .....	5852.
(j) .....	5855.
(k) .....	5853.

The prior sections 5851 to 5853, act Aug. 16, 1954, ch. 736, are set out in 68A Stat. 728.

The prior sections 5854 and 5855, Pub. L. 85-859, title II, §203(i)(1), Sept. 2, 1958, are set out in 72 Stat. 1428.

A prior section 5862, act Aug. 16, 1954, ch. 736, 68A Stat. 729, relating to the forfeiture and disposal of any firearm involved in any violation of the provisions of this chapter or any regulation promulgated thereunder, was omitted in the general revision of this chapter by

Pub. L. 90-618. The provisions of prior section 5862 of this title are covered by section 5872 of this title.

EFFECTIVE DATE

Section effective on first day of first month following October 1968, see section 207 of Pub. L. 90-618, set out as a note under section 5801 of this title.

Subchapter D—Penalties and Forfeitures

Sec.	
5871.	Penalties.
5872.	Forfeitures.

PRIOR PROVISIONS

A prior subchapter D, consisted of sections 5861 and 5862, prior to the general revision of this chapter by Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1227.

§ 5871. Penalties

Any person who violates or fails to comply with any provision of this chapter shall, upon conviction, be fined not more than \$10,000, or be imprisoned not more than ten years, or both.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1234; amended Pub. L. 98-473, title II, §227, Oct. 12, 1984, 98 Stat. 2030.)

PRIOR PROVISIONS

A prior section 5871, act Aug. 16, 1954, ch. 736, 68A Stat. 729, consisted of provisions similar to those comprising this section, prior to the general revision of this chapter by Pub. L. 90-618.

Provisions similar to those comprising this section were contained in prior section 5861, act Aug. 16, 1954, ch. 736, 68A Stat. 729, prior to the general revision of this chapter by Pub. L. 90-618.

AMENDMENTS

1984—Pub. L. 98-473 struck out “, and shall become eligible for parole as the Board of Parole shall determine” after “or both”.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-473, title II, §235(a)(1)(B)(ii)(IV), Oct. 12, 1984, 98 Stat. 2032, provided that the amendment made by section 227 of Pub. L. 98-473 is effective Oct. 12, 1984.

EFFECTIVE DATE

Section effective on first day of first month following October 1968, see section 207(a) of Pub. L. 90-618, set out as a note under section 5801 of this title.

§ 5872. Forfeitures

(a) Laws applicable

Any firearm involved in any violation of the provisions of this chapter shall be subject to seizure and forfeiture, and (except as provided in subsection (b)) all the provisions of internal revenue laws relating to searches, seizures, and forfeitures of unstamped articles are extended to and made to apply to the articles taxed under this chapter, and the persons to whom this chapter applies.

(b) Disposal

In the case of the forfeiture of any firearm by reason of a violation of this chapter, no notice of public sale shall be required; no such firearm shall be sold at public sale; if such firearm is forfeited for a violation of this chapter and there is no remission or mitigation of forfeiture thereof, it shall be delivered by the Secretary to the Administrator of General Services, General

Services Administration, who may order such firearm destroyed or may sell it to any State, or possession, or political subdivision thereof, or at the request of the Secretary, may authorize its retention for official use of the Treasury Department, or may transfer it without charge to any executive department or independent establishment of the Government for use by it.

(Added Pub. L. 90-618, title II, §201, Oct. 22, 1968, 82 Stat. 1235; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

#### PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in prior section 5862, act Aug. 16, 1954, ch. 736, 68A Stat. 729, prior to the general revision of this chapter by Pub. L. 90-618.

#### AMENDMENTS

1976—Subsec. (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

#### EFFECTIVE DATE

Section effective on first day of first month following October 1968, see section 207(a) of Pub. L. 90-618, set out as a note under section 5801 of this title.

### CHAPTER 54—GREENMAIL

Sec.  
5881. Greenmail.

#### § 5881. Greenmail

##### (a) Imposition of tax

There is hereby imposed on any person who receives greenmail a tax equal to 50 percent of gain or other income of such person by reason of such receipt.

##### (b) Greenmail

For purposes of this section, the term “greenmail” means any consideration transferred by a corporation (or any person acting in concert with such corporation) to directly or indirectly acquire stock of such corporation from any shareholder if—

(1) such shareholder held such stock (as determined under section 1223) for less than 2 years before entering into the agreement to make the transfer,

(2) at some time during the 2-year period ending on the date of such acquisition—

(A) such shareholder,

(B) any person acting in concert with such shareholder, or

(C) any person who is related to such shareholder or person described in subparagraph (B),

made or threatened to make a public tender offer for stock of such corporation, and

(3) such acquisition is pursuant to an offer which was not made on the same terms to all shareholders.

For purposes of the preceding sentence, payments made in connection with, or in transactions related to, an acquisition shall be treated as paid in such acquisition.

##### (c) Other definitions

For purposes of this section—

##### (1) Public tender offer

The term “public tender offer” means any offer to purchase or otherwise acquire stock or

assets in a corporation if such offer was or would be required to be filed or registered with any Federal or State agency regulating securities.

##### (2) Related person

A person is related to another person if the relationship between such persons would result in the disallowance of losses under section 267 or 707(b).

##### (d) Tax applies whether or not amount recognized

The tax imposed by this section shall apply whether or not the gain or other income referred to in subsection (a) is recognized.

##### (e) Administrative provisions

For purposes of the deficiency procedures of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

(Added Pub. L. 100-203, title X, §10228(a), Dec. 22, 1987, 101 Stat. 1330-417; amended Pub. L. 100-647, title II, §2004(o)(1)(A), (B)(i), (C), (2), Nov. 10, 1988, 102 Stat. 3608.)

#### AMENDMENTS

1988—Subsec. (a). Pub. L. 100-647, §2004(o)(1)(A), substituted “gain or other income of such person by reason of such receipt” for “gain realized by such person on such receipt”.

Subsec. (b). Pub. L. 100-647, §2004(o)(1)(B)(i), substituted “a corporation (or any person acting in concert with such corporation) to directly or indirectly acquire stock of such corporation” for “a corporation to directly or indirectly acquire its stock”.

Subsec. (d). Pub. L. 100-647, §2004(o)(1)(C), substituted “amount” for “gain” in heading and inserted “or other income” after “the gain” in text.

Subsec. (e). Pub. L. 100-647, §2004(o)(2), added subsec. (e).

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 2004(o)(1)(A), (C), (2) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provisions of the Revenue Act of 1987, Pub. L. 100-203, title X, to which such amendment relates, see section 2004(u) of Pub. L. 100-647, set out as a note under section 56 of this title.

Pub. L. 100-647, title II, §2004(o)(1)(B)(ii), Nov. 10, 1988, 102 Stat. 3608, provided that: “The amendment made by clause (i) [amending this section] shall apply to transactions occurring on or after March 31, 1988.”

#### EFFECTIVE DATE

Pub. L. 100-203, title X, §10228(d), Dec. 22, 1987, 101 Stat. 1330-418, provided that: “The amendments made by this section [enacting this chapter and amending section 275 of this title] shall apply to consideration received after the date of the enactment of this Act [Dec. 22, 1987] in taxable years ending after such date; except that such amendments shall not apply in the case of any acquisition pursuant to a written binding contract in effect on December 15, 1987, and at all times thereafter before the acquisition.”

### CHAPTER 55—STRUCTURED SETTLEMENT FACTORING TRANSACTIONS

Sec.  
5891. Structured settlement factoring transactions.

#### § 5891. Structured settlement factoring transactions

##### (a) Imposition of tax

There is hereby imposed on any person who acquires directly or indirectly structured settle-