

the 50 percent addition to tax is assessed for fraud (see § 479.51).

[36 FR 14256, Aug. 3, 1971. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-251, 52 FR 19334, May 22, 1987; T.D. ATF-363, 60 FR 17453, Apr. 6, 1996; ATF 2013R-9F, 79 FR 46693, Aug. 11, 2014]

§ 479.51 Fraudulent return.

If any part of any underpayment of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 50 percent of the underpayment, but no delinquency penalty shall be assessed with respect to the same underpayment (section 6653, I.R.C.).

APPLICATION OF STATE LAWS

§ 479.52 State regulations.

Special tax stamps are merely receipts for the tax. Payment of tax under Federal law confers no privilege to act contrary to State law. One to whom a special tax stamp has been issued may still be punishable under a State law prohibiting or controlling the manufacture, possession or transfer of firearms. On the other hand, compliance with State law confers no immunity under Federal law. Persons who engage in the business of importing, manufacturing or dealing in firearms, in violation of the law of a State, are nevertheless required to pay special (occupational) tax as imposed under the internal revenue laws of the United States. For provisions relating to restrictive use of information furnished to comply with the provisions of this part see § 479.23.

Subpart E—Tax on Making Firearms

§ 479.61 Rate of tax.

Except as provided in this subpart, there shall be levied, collected, and paid upon the making of a firearm a tax at the rate of \$200 for each firearm made. This tax shall be paid by the person making the firearm. Payment of the tax on the making of a firearm shall be represented by a \$200 adhesive stamp bearing the words “National

Firearms Act.” The stamps are maintained by the Director.

[T.D. ATF-270, 53 FR 10508, Mar. 31, 1988]

APPLICATION TO MAKE A FIREARM

§ 479.62 Application to make.

(a) *General.* No person shall make a firearm unless the person has filed with the Director a completed application on ATF Form 1 (5320.1), Application to Make and Register a Firearm, in duplicate, executed under the penalties of perjury, to make and register the firearm and has received the approval of the Director to make the firearm, which approval shall effectuate registration of the firearm to the applicant. If the applicant is not a licensed manufacturer, importer, or dealer qualified under this part and is a partnership, company (including a Limited Liability Company (LLC)), association, trust, or corporation, all information on the Form 1 application shall be furnished for each responsible person of the applicant

(b) *Preparation of ATF Form 1.* All of the information called for on Form 1 shall be provided, including:

(1) The type of application, *i.e.*, tax paid or tax exempt. If the making of the firearm is taxable, the applicant shall submit a remittance in the amount of \$200 with the application in accordance with the instructions on the form;

(2) The identity of the applicant. If an individual, the applicant shall provide the applicant's name, address, and date of birth, and also comply with the identification requirements prescribed in § 479.63(a). If other than an individual, the applicant shall provide its name, address, and employer identification number, if any, as well as the name and address of each responsible person. Each responsible person of the applicant also shall comply with the identification requirements prescribed in § 479.63(b);

(3) A description of the firearm to be made by type; caliber, gauge, or size; model; length of barrel; serial number; other marks of identification; and the name and address of the original manufacturer (if the applicant is not the original manufacturer);