

Benefits of a Firearms Trust

1. Allows more than one person to possess and use NFA firearms held in the trust. (NFA weapons include suppressors, short-barreled rifles and shotguns, and machineguns.) Possession of an NFA firearm not registered to you is a serious felony with strict penalties. This means even your close family may not use or even have access to your NFA firearms without your direct supervision. Rather than create a situation where your wife or children can easily become felons, many families choose to use a firearms trust since this allows for possession of the firearm by more than one person.
2. Avoids probate and related costs and loss of privacy. The assets are possessed by the trustee of the trust, in trust, for the benefit of the beneficiaries. On your death, the firearms continue to be possessed by the other trustees or, if there are none, the trustees named to take over after your death or incapacity. This process ensures that the court doesn't require a list of your firearms as part of the probate process. (Probate records are public. Trusts are not.)
3. No need for transfers after death. Currently, under federal law a non-NFA firearm can be transferred to a beneficiary of a will, including an out-of-state beneficiary, without governmental approval. (Some states have their own restrictions, such as California.) Because the firearms remain in a trust at your death, the transfer procedure is avoided for even NFA firearms. This means your inheritors don't have to pay \$200 transfer tax, file an ATF transfer form, receive permission from the local chief law enforcement officer (CLEO), and get fingerprinted and photographed.
4. Guidance to Trustees. Because trusts avoid probate, the executor of your Will does not have to be concerned about your firearms. Instead, your trustee or trustees continue to possess the firearms. These trustees can be individuals who have a better knowledge about firearms and firearm laws than the person you want as your executor. Also, a properly-drafted firearms trust provides guidance to the trustees to help ensure they are aware of their legal responsibilities.
5. Provides a mechanism to protect the firearms from being permanently confiscated in case a trustee becomes incapacitated or a "prohibited" person and cannot be in possession of the firearm. In this case, the trustee is removed from being a trustee and the firearms are kept in possession by other-named trustees.

A firearms trust will include exhibits or schedule that list the firearms in the trust. When purchasing an NFA firearm on behalf of a firearms trust, a copy of the trust must be provided to the ATF. Some are concerned about providing such a list to the ATF. The firearm trusts I prepare include two exhibits. Exhibit A lists NFA firearms. Exhibit B lists non-NFA firearms. When purchasing a new NFA firearms,

you would add the information for the new firearm to Schedule A and provide the trust with Schedule A to the ATF. They already have a registry of your NFA firearms, so providing them this information doesn't disclose anything they don't already have. (In fact, if the ATF doesn't have your firearm listed in their registry, you have other problems.) Do not include Schedule B. The ATF does not need Schedule B and it is none of their business what non-NFA firearms you own.