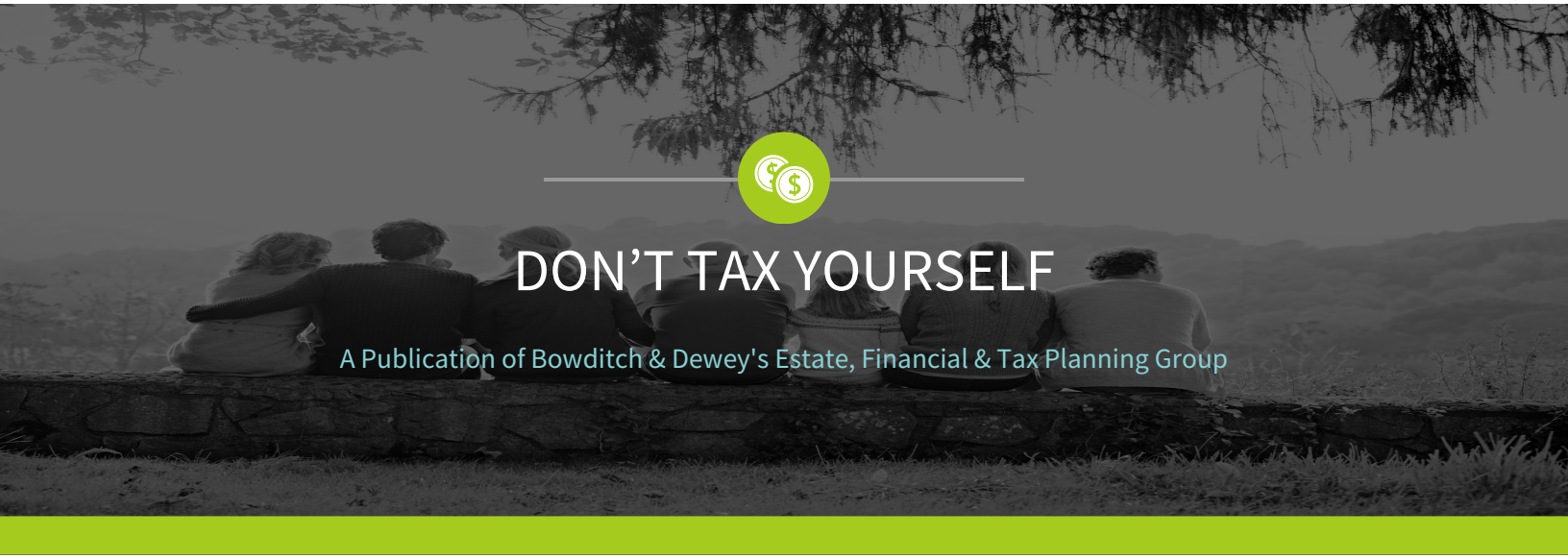

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Gun Trusts – What Are They and How the Law Will Soon Change

BY REBECCA FLEWELLING • FEBRUARY 12, 2016

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) recently published a ruling reflecting a rule change with regards to Gun Trusts, which will go into effect in July of 2016.

A gun trust is pretty much the same as any other trust with one small difference: it is designed to receive, purchase and manage guns. Typically, gun trusts are used for weapons that are regulated by the National Firearms Act of 1934 (NFA) and Title II of the Gun Control Act of 1968.

NFA weapons have to have a serial number and must be registered with the ATF. If a gun is already registered to a specific person, it is illegal for anyone other than the registered owner to use the gun. To transfer a registered firearm, the owner has to obtain approval from the federal ATF and must pay a $200 tax.

Gun Trusts enable multiple individuals to possess and use weapons held in a trust. The weapons held in trust can be transferred much more easily after the original owner's death by way of a trust, and if structured properly, a gun trust can enable inheritors to legally use the gun without having to pay the transfer tax.

The new rule affects the application process to transfer or manufacture an NFA firearm. Currently, the ATF only requires proof that a valid NFA gun trust exists as a part of the application process. Now, this rule will require that in addition to a copy of the NFA gun trust, proof that each "responsible person" on the NFA gun trust is entitled to possess firearms by way of fingerprints, photographs, etc. will be required. After you have received approval under the new rules, you will be exempt from having to submit fingerprint cards or photographs for 2 years from date of the most recent approval.

In other words, each and every "responsible person" of the NFA gun trust will now be subjected to background checks and a more rigorous application process. A responsible person in this context means an individual with the power or authority to receive or possess the firearm. Typically, this will mean the grantor(s) and the trustee(s) (and in certain situations, the beneficiaries) are the responsible parties of a gun trust.

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These new rules won't go into effect until July 13 of this year, and all pending applications dated before this date will be grandfathered in under the existing rules. So, if you are thinking of creating a gun trust, now would be the time to do it!

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