

Testimony of Steven Dodd Hughes

before the

Senate Committee on Finance

Hearing on Small Business and Rural Development

June 4, 2002

My name is Steven Dodd Hughes. I am a custom gunmaker from Livingston, Montana, a town of 7000 individuals. I have run a sole proprietorship - I call it a one man shop - for 24 years. The majority of my business income is generated outside of Montana and brought into a state with little industry. Out in the west, the locals appreciate the dollars coming into the community. Most custom gunmakers live in the rural West: Montana, Wyoming, Idaho and other states. In fact, several communities such as Glenrock, Wyoming, and Big Timber, Montana, boast custom gunmaking as a major income source for the community.

I am here to testify on the need for an excise tax exemption for custom gunmakers. The current 11% excise tax was originally part of the 1937 Pittman-Robertson Act to set aside funds for wild lands and to build shooting ranges. It is levied on all firearms and ammunition manufacturers. The tax is tallied by the serial number of the gun's action at the time of manufacturer. For manufacturing and taxation purposes, this rifle action would be defined as the frame or receiver of the gun. It is a good tax but was never meant to be applied to the one man shop scenario.

I don't actually build new guns and shouldn't be subject to the tax.

Let's look at it this way: I'm getting to the age of having

crowns made for my teeth. Does that make the dentist a tooth manufacturer? Or is he updating and upgrading what is already there?

As a custom gunmaker I take existing rifle action and completely rebuild it into a uniquely artistic firearm for an individual, updating and upgrading it. I complete about 4 to 5 custom guns per year. Some of my associates create as many as 20 guns per year. I hold a Federal Firearms license just like a hardware store that sold guns would. Those who make rifle actions are required to have a Manufacturers Firearms License. Every business that I know of making rifle actions in any quantity holds a Manufacturers license. Although we call ourselves Custom Gunmakers, we do not manufacture the gun's frame or action.

Here are photos of my work. The two rifles on the cover of this book I wrote were made from existing rifle actions that had already been levied with this tax. This excise tax has already been paid on most of the rifle actions used by custom gunmakers. In fact, the current interpretation of the regulation is so ambiguous that if a client supplies the action to the gunmaker the client is deemed the manufacturer and he is liable for the 11% tax. Who is going to assess and collect it from this client? Who is going to determine how much tax has been previously paid on that rifle action?

As a small business owner I do the bookkeeping, keep my Federal Firearms License records, do the advertising, promotion, travel to show my work and sweep the shop floor. All of this besides building the guns.

This tax has been a longtime source of confusion for small businesses, and I believe it has been an administrative headache for the IRS and BATF. And Congress has agreed with me in the past. In 1982, Congress passed an appropriations bill that prohibited BATF from collecting the firearms excise tax from custom gunsmiths. Later, the Department of Treasury took the position that the 1982 provision expired at the end of fiscal year 1982. I believe the intent of the law was to establish a permanent ban on the collection of the firearms excise tax from small shops like mine.

In the past, members of the Committee, including you Mr. Chairman, have introduced legislation to correct this problem. I hope we can clear up the confusion soon, because this burdensome tax has the potential to put many shops like mine out of business.

In conjunction with the American Custom Gunmakers Guild and the NRA, I have been trying to get this exemption since 1977. This cottage industry is one of the last bastions of high quality hand craftsmanship in America. We do not manufacture firearms. Further taxation might snuff us out.

I represent a few hundred craftsmen around these United States. I work with these hands. 85% of my work, and that of my associates is done by hand. My clients call me an artist. I call myself an artisan. This tax was never meant to be applied to these hands working in a one man shop. I am here to request that you consider exempting artisans from a manufacturing excise tax.

Thank you!